111-412

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. ~~903.~~ 1588

ALFRED SLIDELL, NICHOLAS H. RIGHTOR, ET AL., APPELLANTS,

vs.

JAMES G. RICHARDSON, REGISTER OF THE STATE LAND OFFICE OF LOUISIANA, SUCCESSOR TO LÉON FRÉMAUX.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF LOUISIANA.

FILED AUGUST 16, 1882.

SUPREME COURT OF THE UNITED STATES.

No. 903.

ALFRED SLIDELL, NICHOLAS H. RIGHTOR, ET AL., APPELLANTS,

vs.

JAMES G. RICHARDSON, REGISTER OF THE STATE LAND OFFICE OF LOUISIANA, SUCCESSOR TO LÉON FRÉMAUX.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF LOUISIANA.

CORRECTED INDEX.

	Original.	Print.
Bill of complaint	1	1
Order for restraining order	77	25
Marshal's return	77	25
Restraining order	78	25
Marshal's return	81	26
Subpœna in chancery to L. Fremaux	81	26
Marshal's return	83	27
Continuance of application for injunction	83	27
Answer	84	28
Hearing and submission of application for injunction	94	31
Order granting injunction *pendente lite*	95	31
Injunction *pendente lite*	95	31
Marshal's return	98	32
Replication	98	32
Extract from common order book; replication filed	100	33
Plaintiff's motion to suppress plan filed by defendant	100	33
Entering motion to suppress, &c., to be heard on final hearing	102	34
Amendment to answer	102	34
Certificate of Commissioner of General Land Office accompanying certain documents	107	35
Letter of Register to Commissioner G. L. O. of Nov. 15, 1858	107	35
Patent certificate on claim of William Conway	107	36
Application for patent of John Slidell	107	36
Patent plat of Wm. Conway claim opposite page	107	36
General plat of claim of Wm. Conway opposite page	107	36
Certified list of State pre-emptions, &c.	113	37

	Original.	Print.
Admissions of counsel of January 4th and April 20th, 1882	115	38
Admissions of counsel of 24th April, 1882	124	41
Motion and order substituting J. G. Richardson as defendant	134	43
List of evidence offered by complainants	134	44
Certificate of Commissioner G L. O as to documents accompany same	150	49
Letter from Thos. H. Blake, Commissioner G. L. O., to Surveyor General of Louisiana, of October 24, 1844	150	49
Letter from James Shields, Commissioner G. L. O., to Secretary of Treasury, of June 24, 1845	152	50
List of swamp selections and approval of do. by Secretary of Interior on June 10, 1881, for 11,879.96 acres	177	58
Letter from Thos. H. Blake, Commissioner G. L. O , to Register at New Orleans, of October 24, 1844	180	59
Decision of Carl Schurz, Sec'y of Interior, on Wm. Conway claim, of May 4th, 1878	181	60
Decision of S. J. Kirkwood, Sec'y of Interior, approving swamp selections in Conway claim, dated May 3d, 1881	189	62
Order of Carl Schurz, Sec'y of Interior, to stay proceedings in Houmas claim for 90 days, dated May 9th, 1878	199	65
Order of same, of June 1st, 1879, to enforce decision against Wm. Conway claim of May 4, 1878	202	66
Decision of Thos. A. Hendricks, Commissioner G. L. O., of January 11, 1859, that Conway claim entitled to patent under act of June 2, 1858	203	66
Letter from J. Thompson, Sec'y of Interior, to Commissioner G. L. O., of December 10th, 1860, on Wm. Conway claim	212	69
Certificate Commissioner G. L. O., of 31st March, 1882, with copies of documents annexed	214	70
Report of Charles Hopkins, Solicitor G. L. O., of 30th September, 1841, on the Houmas claims	215	70
Letter from E. M. Huntington, Commissioner G. L. O., of February 14, 1842, on application for patent on Conway claim	225	73
Letter from McC. Young, Sec y of Treasury, to Commissioner G. L. O , of Aug. 2, 1842, about Conway claim	235	76
"History of facts" upon Houmas claims by Thos. H. Blake, Commissioner G. L. O., of August 9th, 1842	236	77
Letter from do. to Attorney General, of August 16, 1842, giving information as to practice of his office	252	82
Letter from do. to Wm. R. King, U. S. Senate, of March 1, 1844, about issuing patents on Houmas claims	256	83
Patent of 22nd August, 1844, on Donaldson & Scott claim	257	83
Patent of 22nd August, 1844, on Daniel Clark claim	260	84
Certificate of Commissioner G. L. O., of 31st March, 1882, with annexed documents	264	85
Letter from Geo. Graham, Commissioner G. L. O., to J P. Turner, Sur. Gen'l, of Feb. 17, 1829, telling how to survey the Houmas claims	265	86
Letter from E. A. Brown, Commissioner G. L. O , of June 17, 1836, to R. C. Nicholas, U. S. Senate, about Houmas claims	270	87
Letter from do. to Register at New Orleans, La., of June 17, 1836, forbidding further entries on Houmas claims	271	88

	Original.	Print.
Letter from Jas. Whitcomb, Comm'r G. L. O., to Sec'y of Treasury, of April 3d, 1839, asking instructions, &c	273	88
Letter from Levi Woodbury, Sec'y of Treasury, to Comm'r G. L. O., of 16th May, 1839, ordering a report on Houmas claim	275	89
Letter from Felix Grundy, Attorney General, to Sec'y of Treasury, of May 16th, 1839	276	89
Letter from Jas. Whitcomb, Comm'r G. L. O., to Sec'y of Treasury, of 3d October, 1840	277	89
Letter from Th. Genois, Register at New Orleans, La., to Comm'r G. L. O., of Feb'y 13, 1841	280	90
Letter from Jas. Whitcomb, Comm'r G. L. O., of 30th June, 1841, to J. Genois, Register at New Orleans, La	283	91
Letter from Isaac T. Preston to Secretary of Treasury, of Jan. 1, 1841.	283	91
Lafon's *proces verbal* of survey in French, on Wm. Conway claim, of 20th February, 1806	288	92
Lafon's plat of Wm. Conway claim, opposite page	288	92
Petition of Maurice Conway, in Spanish, of 9th Sept., 1776	292	94
Order of survey by Unzaga, of 27 Sept., 1776—Spanish	293	94
Andry's *proces verbal* of survey, Spanish, of 1 Oct., 1776	294	94
Patent, in Spanish, by Galvez, 21 June, 1777	298	96
Deed, Maurice to Wm. Conway, Spanish, of 27 October, 1786	300	96
Deed of exchange between Wm. Conway and Pierre Part, of 27 March, 1791	304	97
Decision of Old Board on Wm. Conway claim, of March 3d, 1806, certified by Register of New Orleans, La	308	98
Certificate of Register at New Orleans, La., of 16th Sept., 1841, with annexed documents in Conway claim	309	99
Certificate of F. A. Wolfley, Clk. Ct. Ct., of 15 Feb., 1882, with annexed documents in Conway claim	309	99
Decision of Geo. M. Bibb, Sec. of Treas., of Aug. 12th, 1844, holding Houmas claims confirmed	311	99
Letter from Com. G. L O. of Feb. 25, 1882, to J. L. Bradford, sending evidence, &c	328	105
Letter from Thos H. Blake, Comm'r G. L. O., to Sur. Gen. of La., of Aug. 17, 1844	330	106
Letter from Com. G. L. O. to Reg. and Rec. at New Orleans, La., refusing to reinstate entry of John Sides, Feb. 10, 1882	331	106
Letter from J. L. Bradford to Comm. G. L. O., of 26 March, 1882, asking for copies, &c	340	109
Letter from Comm. G. L. O. to J. L. Bradford, of April 4, 1882, transmitting copies, &c	348	111
Letter from Comm. G. L. O of 31 Oct., 1878, to Reg. and Rec. at New Orleans, about entry of John Sides	351	113
Notice of claim by Wm. Conway, of 28 Feb., 1806	352	113
Translation of Lafon's *praces verbal* of survey of 20th Feb., 1806, (French, on p. 92)	355	114
List of swamp selections in Wm. Conway claim, containing 11,879.96 acres, approved by Sec. of Interior	361	117
Abstract of State entries in certain townships	365	119

	Original.	Print.
List of swamp selections of Aug. 18, 1879, for 1,502.31 acres	372	123
List of swamp selections of May 1, 1879—10,745.11 acres	374	124
Translation of deed of exchange of 27 March, 1791, between Wm. Conway and Pierre Part, (French, on p. 97)	375	124
Letter from Sec. of Treas. to Comm. G. L O. of 31st Oct., 1840	380	127
Certificate of Register at New Orleans of 12 Jan., 1842, as to dates of confirmations of Houmas claims	381	127
Letter from Atty. Gen. to Sec. of Treas. of 2d Sept., 1842, about Houmas claims	382	127
Patent certificate on Donaldson and Scott claim, issued Jan. 30, 1843	384	128
Patent certificate on Daniel Clark claim, issued Jan. 30th, 1843	386	128
Letter from Sec. of Treas. to Samuel D. King, of 15th Nov., 1843	387	129
Letter from Isaac T. Preston to Comm. G. L. O., of Sept. 23d, 1844	389	130
Letter from Wm. C. Johnson to Comm. G. L. O., of Oct. 19th, 1844	390	130
Letter from Register at New Orleans, La., to Comm. G. L. O., of Dec. 7, 1844, saying he had issued certificate on Conway claim	391	130
Patent certificate of Dec. 7, 1844, on Conway claim	392	131
Letter from Comm. G. L. O. to Sur. Gen. of La. of May 14, 1878, sending Sec. of Interior's decisions on Wm. Conway claim	395	132
Letter from Comm. G. L. O. to Sur. Gen. of La , of July 8, 1879, telling him to survey Conway claim as public land	396	132
Decision of Comm. G. L. O. of 22d June, 1877, holding Conway claim valid for 80 arpens in depth	399	133
Letter from Sur. Gen. of La. to J. L. Bradford, of 27th April, 1882, about radiating lot surveys	438	144
Letter from do. to do. of April 27, 1882	439	145
Certificate of Chas. F. Folger, Sec. of Treas., of 21st April, 1882, as to documents annexed	441	146
Letter from Sec of Treas. to Comm. G. L. O., of 31st Oct., 1840	441	146
Letter from Sec. of Treas. to Sam. D. King, of 15th Nov , 1843	442	146
Letter from Acting Sec. of Treas. to J. L. Bradford, of 21st April, 1882	444	147
Translation of French deed from Maurice Conway to Wm. Conway, of 27th Oct., 1786, (French, on p. 97)	445	147
Motion to suppress, in part, complainant's evidence	450	149
Admission of complainants of May 2d, 1882	450	149
Decisions of Commissioners on 3 Houmas claims, certified by Sur. Gen. of La	451	150
Memorandum of defendants' evidence	456	151
Regulations of O'Rielly	456	152
Agreement of plaintiffs to discharge Rule	464	154
Agreement to submit cause	464	154
Submission of cause	465	155
Decree	466	155
Motion and order for appeal	467	156
Bond for Appeal	469	156
Clerk's certificate	472	157

SUPREME COURT OF THE UNITED STATES.

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ALFRED SLIDELL, NICHOLAS H. RIGHTOR, ET AL., APPELLANTS,

vs.

JAMES G. RICHARDSON, REGISTER OF THE STATE LAND OFFICE OF LOUISIANA, SUCCESSOR TO LÉON FRÉMAUX.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF LOUISIANA.

INDEX.

	Original.	Print.
Bill of complaint	1	1
Order for restraining order	77	25
Marshal's return	77	25
Restraining order	78	25
Marshal's return	81	26
Subpœna in chancery to L. Frémaux	81	26
Marshal's return	83	27
Continuance of application for injunction	83	27
Answer	84	27
Hearing and submission of application for injunction	94	31
Order allowing same *pendente lite*	95	31
Injunction	95	31
Marshal's return	98	32
Replication	98	32
Extract from chancery order book	100	33
Motion to suppress plan filed by defendant	100	33
Entering motion to suppress, &c., to be heard on final hearing	102	34
Amendment to answer	102	34
Certified copies of letters of register to Commissioner of the General Land Office	107	35
Map of claim of William Conway	112	36
Certified list of State pre-emptions, &c	113	37
Admissions of counsel of January 4 and April 20, 1882	115	38
Admissions of counsel of April 24, 1882	124	40
Substitution of J. G. Richardson as defendant	134	43

	Original.	Print.
Complainants' list of evidence	134	44
Document marked No. 1 offered by complainants	147	48
No. 2 offered by complainants	147	48
No. 3 offered by complainants	148	48
No. 4 offered by complainants	148	48
No. 5 offered by complainants	148	48
1st offered by complainants	148	48
2d offered by complainants	213	69
3d offered by complainants	263	85
4th offered by complainants	285	92
5th offered by complainants	311	99
6th offered by complainants	328	105
7th offered by complainants	330	105
8th offered by complainants	332	106
9th offered by complainants	340	107
10th offered by complainants	348	111
11th offered by complainants	351	112
12th offered by complainants	352	113
13th offered by complainants	355	114
14th offered by complainants	360	116
15th offered by complainants	366	119
16th offered by complainants	368	120
17th offered by complainants	370	121
18th offered by complainants	372	123
19th offered by complainants	373	123
20th offered by complainants	375	124
21st offered by complainants	379	126
22d offered by complainants	394	131
23d offered by complainants	396	132
24th offered by complainants	398	133
25th offered by complainants	437	144
26th offered by complainants	439	145
27th offered by complainants	440	140
28th offered by complainants	444	147
29th offered by complainants	445	147
Motion to suppress in part complainants' evidence	450	149
Admission of complainants	450	149
Copy of decision of board of commissioners on claim of Conway et als. offered in evidence by complainants as 5½	451	149
Defendant's evidence	455	151
Admissions of complainants of April 24 and May 2, 1882	456	151
Regulations of O'Reilly	456	152
Agreement by complainants to discharge rule	464	154
Agreement to submit cause	464	154
Submission of cause	465	154
Decree	466	155
Motion and order for appeal	467	156
Bond for appeal	469	156
Clerk's certificate	472	157

a UNITED STATES OF AMERICA:

Circuit court of the United States for the fifth judicial circuit and eastern district of Louisiana.

ALFRED SLIDELL ET ALS.
vs.
LÉON FRÉMAUX, REGISTER OF THE LAND OFFICE of the State of Louisiana. } No. 9684.

J. L. Bradford, esq., solicitor for Alfred Slidell et als., complainants, appellants; Messrs. Rouse and Grant for Léon Frémaux, respondent, appellee.

Appeal returnable in the Supreme Court of the United States on the second Monday of October, A. D. 1882.

1 UNITED STATES OF AMERICA:

Circuit court of the United States for the fifth judicial circuit and eastern district of Louisiana. In equity.

ALFRED SLIDELL ET ALS.
vs.
LÉON FRÉMAUX, REGISTER OF THE LAND OFFICE of the State of Louisiana. } No. 9684.

Bill of complaint.—Filed November 17th, 1881.

To the judges of the circuit court of the United States for the eastern district of Louisiana, in the fifth circuit:

Your orators, Alfred Slidell, residing in Paris, in the Republic of France, a citizen of said republic; Duncan F. Kenner, of New Orleans, in the State of Louisiana, a citizen of said State; Nicholas H. Rightor, of New Orleans, in the State of Louisiana, a citizen of said State; Robert Lawes, of the parish of Assumption, in the State of Louisiana, a citizen of
2 said State; Marguerite Mathilde Slidell, wife of the Baron Emile d'Erlanger, residing in Paris, in the Republic of France, and a citizen of said republic, herein joined and authorized by her said husband; Marie Rosine Slidell, wife of Etienne Pierre Jacques Henri de Serres, Count de Saint Roman, residing in Paris, in the Republic of France, and a citizen of said republic, herein joined and authorized by her said husband; Marie Marguerite Caroline Slidell, wife of Jacob Antoine Henry Leodegar Charles Louis Phyffer de Heydegg, residing in Lucerne, in the Republic of Switzerland, and a citizen of said republic, herein joined and authorized by her said husband; Henry Clement Millaudon, of the parish of Point Coupée, in the State of Louisiana, a citizen of said State; Benjamin L. Millaudon, of the parish of St. Bernard, in the State of Louisiana, a citizen of said State; Jeanne Henrietta Millaudon, widow of Charles C. Gardanne, dec'd, residing in New Orleans, in the State of Louisiana, and a citizen of said State; Laurent André Burhte, re-

siding in New Orleans, in the State of Louisiana, and a
3 citizen of said State; Josephine Pagès, widow of Emanuel Burthe, residing in Liberty, in the State of Virginia, a citizen of said State, tutrix of and herein suing in behalf of the minors Estelle and Laurent André, issue of her marriage with the said Emanuel Burthe, deceased; Thomas Butler, of the parish of West Feliciana, in the State of Louisiana, and a citizen of said State, tutor for and herein suing in behalf of the minors Louise, Robert, Edward, and Marguerite, issue of the marriage of Marie Marguerite Burthe, deceased, with Robert O. Butler, deceased; Genevieve Millaudon, wife of and herein joined and authorized by her husband, George Edmond Brown, residing with him at Breaux Bridge, in the parish of St. Martin, in the State of Louisiana, and a citizen of said State; Louise Burthe, widow of Dominique F. Edmond Burthe, deceased, in her own right and as tutrix of and herein suing in behalf of the minors Madeline, Elodie, Gabrielle, Edmond, and Cecile, issued of her marriage with the said Dominique F. E. Burthe, deceased, residing in New Orleans, in the State of Louisiana, and a citizen
4 of said State; Nicholas B. Trist, residing in New Orleans, in the State of Louisiana, and a citizen of said State; Nanine Bringier, wife of and herein joined and authorized by her husband, Duncan F. Kenner, residing with her said husband in New Orleans, in the State of Louisiana, a citizen of said State; Aglaé Bringier, wife of and herein joined and authorized by her husband, Benjamin Tureaud, residing with him in the parish of Ascension, in the State of Louisiana, and a citizen of said State; Louiza Bringier, wife of and herein joined and authorized by her husband *by her husband*, Martin Gordon, jr., residing with him in New Orleans, Louisiana, and a citizen of said State; Marius S. Bringier, of New Orleans, in the State of Louisiana, a citizen of said State; Octavie Bringier, wife of and herein joined and authorized by her husband, Allen Thomas, residing with her said husband in Baton Rouge, in the parish of East Baton Rouge, in the State of Louisiana, and a citizen of said State; Martin Duradon Bringier, residing in New Orleans, in the State of Louisiana, and a citizen of said State, herein suing in his own right
5 and as tutor of the minor Myrthé Taylor; Louise Taylor, residing in New Orleans, in the State of Louisiana, and a citizen of said State; Bettie Taylor, wife of and herein joined and authorized by her husband, Walter Stauffer, residing with her said husband in New Orleans, in the State of Louisiana, and a citizen of said State; Nicholas P. Trist, residing in the parish of St. James, in the State of Louisiana, and a citizen of said State; Wilhelmine Trist, wife of and herein joined and authorized by her husband, Robert C. Wood, residing with him in New Orleans, in the State of Louisiana, and a citizen of said State; Oliver Bierne, residing in Monroe County, West Virginia, and a citizen of said State, executor of the last will and testament of John Burnside, deceased, and universal legatee thereunder, bring this their bill against Léon or L. Frémaux, residing in the city of New Orleans, in the eastern district of the State of Louisiana, and a citizen of said State, register of the State land office for said State, which office is situated and exercised in said city and State.

6 And therefore your orators complain and say:

That in the year 1776, on the 9th day of September, at a time

when Spain was in possession as sovereign of the province of Louisiana, embracing a portion of the present State of Louisiana lying east of the river Mississippi and south of the Iberville River (now called the Bayou Manchac and the Amite River), and of the lakes Maurepas and Pontchartrain, exercising therein the rights, powers, and attributes of a sovereign and owner of said territory, Maurice Conway, an inhabitant of said territory, at New Orleans, made his certain claim, petition, or demand, addressed to Don Louis Unzaga y Amezaga, then military and political governor of said city of New Orleans and province of Louisiana, praying said governor to grant him all the back lands particularly set forth and described in said petition, as by the said petition when produced will appear, and that he would appoint Lewis Andry to place him, the said Maurice Conway, in possession of said land, and to survey the same and fix the boundaries thereof, and to do further acts and things usual
7 and needful in the premises.

That afterwards, to wit, on the 27th of said month of September, 1776, the said political and military governor made his order directing the said Lewis Andry to go to the land applied for, and to place the applicant, said Maurice Conway, in possession of the same, if vacant, and if no injury would result to any of the adjoining inhabitants; to establish the boundaries of said land and to make to him, the said governor, a proces verbal or return of his proceedings, in order that he might issue to the said Maurice Conway a complete title for the land so petitioned for and surveyed, as by the said order of said governor, when produced, will appear.

That afterwards, to wit, on the first day of October, 1776, or thereabouts, the said Lewis Andry proceeded to the land described in the said petition of the said Maurice Conway and in the order of the governor, and there, in obedience to said order and as prayed for in said petition, did survey and establish the boundaries of said land and did place the petitioner, the said Maurice Conway, in possession of the same,
8 and did grant and make his certificate or proces verbal of his proceedings, signed by him and said Maurice Conway and Don Louis Judice, then commandante of the district of Lafourche, which proces verbal of his said proceedings he afterwards returned to the said military and political governor; all of which by the said proces verbal, when produced, will appear.

That afterwards, to wit, on the 21st day of June, in the year 1777, Don Bernado De Galvez, then governor ad interim and intendant of said province of Louisiana, made and delivered to the said Maurice Conway his complete grant in the name and by the authority of the King of Spain of the land so surveyed, and whose boundaries had been by the said Lewis Andry established as aforesaid, and of which the possession had been given to the said Maurice Conway; the said grant vesting in the said Conway an estate of inheritance and fee-simple in all the lands therein described without condition or reservation, and without requiring any other act or thing to be done by the said Conway or other person before the full, final, and complete vesting in him of said estate of inheritance
9 and fee-simple in said lands; all of which by the said instrument of grant, when produced, will appear.

That by the survey of the boundaries of said land by the said Louis

Andry, it appeared that the same was situated on the left bank of the Mississippi River in descending the same, about 24 leagues above the town of New Orleans, in the then district of La Fourche, with a front on said stream of 96 lineal arpents, and that the upper side line extended from said river into the interior of the country on a compass direction of north 50° west, the lower side line in like manner extending from the river into the interior of the country on a compass direction of north 70° east, and both of said side lines diverging in consequence towards the rear, with an angle of 120° between the same; and that said side lines were not actually run out, measured, and marked upon the ground further into the interior than the distance of 42 lineal arpents from said river, where posts or bournes were set by said Andry, which, with similar posts or bournes, also set by him, on each of said side lines near the said river, would serve to fix the course of said lines into the interior whenever it might suit the convenience or interests of said Maurice Conway so to extend the same. That all this was done in conformity with the usages and customs and under the circumstances of necessity of said province, and was not intended in any manner to limit or control the extent of the said lands to the rear and into the interior, but on the contrary to give to the same an extent towards the rear & into the interior upon the prolongation of the said side lines as far as the jurisdiction and power of said governor to grant the domain lands extended.

That at the times when the foregoing proceedings took place and immediately before and after the same the territorial limits of said province of Louisiana, in that vicinity, extended northward to the water boundary formed by the Iberville River and the chain of lakes and their connections, now known as Lake Maurepas, Lake Pontchartrain, and Lake Borgne, the said Iberville River, as then known, being the connecting link or arm between the Mississippi River and the Lake Maurepas, now known as pass or Bayou Manchac and Amite River; that therefore the said grant of land so made by the authorities of Spain in said province to the said Maurice Conway extend and was so intended to extend along the Mississippi River, with a front thereon, as stated, of 96 lineal arpents, or about 3½ miles, and in depth between the side lines as heretofore described from the said river to the said Iberville River and the said Lake Maurepas.

And your orators further show that, under and by virtue of said petition, made by the said Maurice Conway to said military and political governor, Don Louis Unzaga y Amezaga, and said order to survey said land and place the petitioner in possession thereof, and the survey and putting into possession thereof by said Andry, and the said proces verbal or return made by said Andry to the said governor ad interim, showing all he had done in the premises, and especially under and by virtue of said grant or complete title made by the said governor ad interim on said 21st day of June, 1777, the said Maurice Conway became vested, under the laws, usages, and customs then in force in the said province of Louisiana, of an estate of inheritance and fee-simple in the lands described in said instruments of title, absolutely and without condition, with full right and authority to use and enjoy the same as his property.

That by the third article of the treaty between Spain and France concluded at Saint Il Defonso on the first of October, 1800, the former sov-

ereign ceded to the latter the province of Louisiana, with limits embracing the lands granted to Maurice Conway as aforesaid, and by the first article of the treaty between the Republic of France and the United States, concluded at Paris on the 30th of April, 1803, the same province, with the same limits, was ceded to the United States, who took possession of the portion of the same embracing the now State of Louisiana at New Orleans on the 20th of December, 1803.

That under an act of Congress approved on the 31st October, 1803, the President of the United States appointed Wm. C. C. Claiborne to be military and political governor of said province, and while he was in the exercise of his powers and duties as such, Wm. Donaldson addressed
13 to him a petition setting forth the grant of land to Maurice Conway as heretofore set forth by your orators, and that the same then belonged to him, the petitioner, Wm. Marenner, and Patrick Conway. That they were desirous that the whole grant should be surveyed, and its lines marked, in order to avoid any interference with the proprietors of neighboring grants and expensive disputes, et cetera; and praying that said governor would permit the said William Marenner, or some other fit person, to survey the said tract and mark the boundaries thereof, and that the surveyor should be protected by the military power of the province while making said survey, as will from said petition, when produced, more fully appear.

That the said governor thereupon authorized said survey of said grant, and directed the commandant of the district to extend to the surveyor his protection, if necessary, as will from the said instrument of license or permit, when produced, more fully appear.

That, in pursuance of said license or order, the whole of said grant was surveyed and its outboundaries determined and marked upon the
14 ground, the upper side line thereof being extended to the Bayou Manchac, or ancient Iberville River, in the course of the first 42 arpents thereof, as surveyed by Don Louis Andry in the year 1776; and the lower side line in like manner extended to the Lake Maurepas, in the course of its first 42 arpents, as likewise surveyed by said Audry in said year 1776; that said grant or tract of land having then passed by certain sales and other lawful modes of transfer from said grantee, Maurice Conway, to divers persons, the same was, under the said order or license of said governor William C. C. Claiborne, further divided and surveyed into three distinct and separate parcels, with different fronts or extents on said Mississippi River, and all of them extending into the rear or interior, respectively, to Bayou Manchac, Iberville River, and Lake Maurepas.

That on the 20th of February, 1806, the said Lafon made his certain plat and certificate of survey, testifying that he had, together with one Andry, both acting under said license or order of said Governor Claiborne, in the month of December, 1803, or the month of March,
15 1804, surveyed in favor of one William Conway the lower portion of said grant, being 27 arpents thereof front on the Mississippi River, and extending by diverging side lines to the Amite River and the Lake Maurepas; and that the upper side line extended from said Mississippi River, on a course N. 9° 15′ E., to the said Amite River, the distance of 351 lineal arpents, and the lower side line from the said Mississippi River, on a course N. 70° 00′ E., to the said Lake Maurepas, the

distance of 455 lineal arpents; all of which will the more fully by said plat and certificate, when produced, more fully appear.

And your orators further show, that on the 2d of March, 1805, an act of Congress was approved entitled "An act for ascertaining and adjusting the titles and claims to land in the Territory of Orleans and the district of Louisiana," under the provision of which a board of commissioners was in due time organized in said Territory of Orleans, which embraced the lands heretofore described, with power to receive notices of claims and the evidence in support thereof to lands within said Territory, to inquire into, examine, and
16 investigate the same, and to decide thereupon according to justice and equity; that under the 4th section of the said act, persons claiming lands by virtue of any complete and perfected grant made before the 1st of October, 1800, were allowed, if they saw fit, and persons claiming lands under imperfect or incomplete grants were required to file before the register of the proper district, before the 1st day of March, 1806, notices in writing stating the nature and extent of their claims, together with plats of the lands so claimed, and before that day to deliver to said register for the purpose of being recorded every grant, order of survey, deed, conveyance, or other written evidence of their said claims.

That in order to enforce obedience to this act, and to induce the inhabitants to exhibit and record their said claims and evidence in support thereof, the 4th section of said act denounced certain penalties and forfeitures against said inhabitants in case of failure so to present their claims and evidence; that by the 5th section thereof it was made the duty of the said board
17 of commissioners through their clerk to prepare two transcripts from the books in which all their decisions were directed to be entered of the favorable decisions upon claims, one of which transcripts was to be filed with the officer exercising in the district the authority of surveyor-general, and the other to be sent to the Secretary of the Treasury, to be by him submitted to Congress for its determination thereon, at their next ensuing meeting after he should have received the same. And said act authorized a majority of said board of commissioners to make favorable decisions upon claims filed before them, and provided that said board should consist of three persons, by reason of which your orators aver that any two were authorized to make said favorable decisions.

And your orators further show that on or about the 28th day of February, 1806, William Conway filed his notice of claim as owner under certain conveyances from Maurice Conway, before the said board of commissioners, with the evidence in support thereof, to a tract of land being a portion of that granted by Spain to Maurice Conway on the 21st
18 June, 1777, having a front on the Mississippi River of 22½ arpents, the upper side line running N. 9° 15′, E. 351 lineal arpents, and the lower side line running N. 70°, E. 455 lineal arpents, and both opening or diverging towards the rear 60°, bounded above by lands of Daniel Clark and below by lands of Simon Laneau, as will by said notice of claim and plat and other evidence in support thereof, when produced, more fully appear.

That said board of commissioners took said claim into consideration, and on or about the 3d day of March, 1806, made their favorable decision thereon, which is known as favorable decision No. 125 in their abstract of favorable decisions, and is in the words and figures following, to wit:

"No. 125. William Conway claims a tract of land, situated in the county

of Acadia, at a place called Houmas, on the left bank of the Mississippi, containing 22½ arpents in front, with an opening towards the rear of 60° 45′, the upper line running north 9° 15′, east 351 arpents, and the lower line directed north 70° east, and measuring 455 arpents, bounded on the upper side by Daniel Clark's land, and on the lower by the land
19 of Simon Laneau. It appearing to the board, from a patent or complete title exhibited, that 17 arpents of front were, together with a greater quantity, granted by the Spanish Government to Maurice Conway 21st June, 1777; and it appearing that the 5½ arpens of front remaining of the land aforesaid were purchased by Pierre Part, at the public sale of the estate of the late Joachim Miro (alias Belony) on the 7th day of December, 1788; and it further appearing to the board, from the several instruments of conveyance offered in testimony, that the two tracts of land aforesaid have been conveyed to the present claimant, the board do hereby confirm his claim aforesaid."

That said decision recognized the said grant made to said Maurice Conway as a complete and perfect grant, obligatory and binding upon the United States as the successor of France and Spain in the province of Louisiana, under the treaty of Paris aforesaid, which decision being that of a special tribunal upon a subject matter within its jurisdiction was subject to no appeal, reversal, or modification whatsoever, save by the
20 final action of Congress thereon. That by the 5th section of said act of Congress of March 2, 1805, said decision was directed to be laid before Congress for its final action thereon, which was done by the Secretary of the Treasury, on the 9th day of January, 1812, with a large number of other favorable decisions on land claims rendered by the commissioners aforesaid.

That under the 2d and 3d articles of the treaty of 30th April, 1803, whereby the United States acquired the province of Louisiana, the constitution and laws of the United States and the principles of equity and justice, it was forbidden to the United States to sell or dispose of, save by the law of the land, pending the decision of the Congress thereon, lands embraced in the favorable decisions aforesaid.

That in full recognition of this want of authority and of the obligation under the treaty aforesaid to protect the inhabitants in the enjoyment of their property, an act of Congress was approved on the 3d day of March, 1811, providing for the survey and sale of the public lands generally in the Territory of Orleans, then embracing the grant made to Mau-
21 rice Conway, whose sixth section contained this pledge: "And provided also, that, till after the final decision of Congress thereon, no tract of land shall be offered for sale the claim to which has been, in due time and according to law, presented to the register of the land office, and filed in his office for the purpose of being investigated by the commissioners appointed for the purpose of ascertaining the rights of persons claiming lands in the Territory of Orleans, or which shall have been located by or for Major-General La Fayette, according to law." That the claim of William Conway having been so presented to the commissioners for the eastern district of the said Territory of Orleans, and having been decided favorably by said commissioners, the lands so claimed were beyond the lawful power of sale or disposition save by the laws of the land, either by Congress or any officer or authority acting under its direction, and

that this absolute want and absence of all authority so to dispose of said lands, or any part thereof, continued without alteration until the full and final action by the said Congress upon the said claim.

22 That by an act of Congress, approved the 18th April, 1814, entitled "An act concerning certificates of confirmation of claims to land in the State of Louisiana," the final action of Congress upon said favorable decision of said board of commissioners upon said claim of William Conway was probably pronounced, ratifying and approving the same, and providing means and measures for the granting a patent for the same under the laws of the United States.

And your orators further show that on or about the same time when the said William Conway presented to the said board of commissioners his own claim for a portion of said grant to Maurice Conway, being 22½ arpents front thereof, and being the lower portion of said grant on the river Mississippi, Daniel Clark also presented his claim before said commissioners for another portion of said grant, having 20 arpents of front on said river, and being immediately above the said 22½ arpents of said William Conway, and that William Donaldson and John W. Scott, jointly, presented their claim to another portion of said grant, containing

23 29 arpents, in front on the same river, and being the uppermost part of said grant on said river; and that about the same time that said commissioners made their favorable decision on said claim of William Conway, they, in like manner, rendered favorable decisions upon the said claims respectively of the said Daniel Clark and of the said Donaldson and Scott.

That in due time the surveying department of the Government of the United States was organized in the State of Louisiana, which State had been admitted into the Union with limits embracing the lands granted to Maurice Conway, and on the 14th of January, 1829, at Washington, Mississippi, James P. Turner, then surveyor of the public lands south of Tennessee, exercising in Louisiana the powers and duties of surveyor-general therein, wrote to his immediate superior in office, George Graham, the Commissioner of the General Land Office, telling how he thought the Houmas claim should be surveyed and asking instructions in the matter; the said grant to Maurice Conway being then and since generally

24 called the Houmas claim or Houmas grant.

That on the 17th of February, 1829, the said George Graham wrote to the said Turner, telling him, for reasons stated, to survey the grant in such a manner as to give it a depth extending out from the Mississippi River equal to a league and a half only, and not to survey it as extending to the depths claimed for the different subdivisions thereof before the board of commissioners and according to the favorable decisions of said commissioners as heretofore set forth; all of which, by the said letters of the said James P. Turner and of the said George Graham, when produced, will appear.

That accordingly the said James P. Turner surveyed or caused to be surveyed, by his lawful deputies, the said subdivisions of said Hou claim, as directed by the said Commissioner of the General Land O which survey adopted and perpetuated for distances of 120 arpents fr the Mississippi River, the upper and lower side lines of the grant to Ma rice Conway as they had been run and established by Louis And

25 in 1776, to the distance of 42 arpents, and by Lafon, Andry, and Maraner in 1803, 1804, and 1805, to the Amite River and Lake Maurepas, respectively. And the side lines having been so terminated at 120 lineal arpents from the river, instead of a league and a half, as directed by said George Graham, which are equal to 126 lineal arpents, the difference being six lineal arpents, or nearly a quarter of a mile, the rear line corresponding to that depth was surveyed and fixed so as to be throughout all its parts 120 arpents distant from the water front, the said Mississippi River; that about the same time the said Turner, or his deputies, also surveyed and fixed another back line to the three divisions or parts of the said grant to Maurice Conway, by running a waving line parallel to and 42 arpents from the Mississippi River, uniting the corners or posts set by Andry in 1776, on the side lines, which, as has been shown, was set by him at said distance of 42 lineal arpents; that by these operations the officers of the surveying department admitted and recognized the titles of the said William Conway, Daniel Clark, and Donaldson & Scott,
26 as legal representatives of the Spanish grantee, Maurice Conway, only to the extent of 42 arpents in depth from the Mississippi River, and the residue of said grant, lying back of and in the rear of said 42 arpent line, and between it and the Amite River and the Lake Maurepas, was held and claimed as public land of the United States, acquired as vacant land under the first article of the treaty of Paris, of the 30th April, 1803; the portion thereof situate between said 42 arpent line and said league and a half line being reserved by said officers from further immediate survey as debatable ground upon which the rights of claimants or the United States might finally attach and operate according to the decision of the courts, which tribunals, as stated by the said George Graham in his instructions to the said Turner, of the 17th February, 1829, were alone competent to decide the question whether said land was private property or public land.

That from that time to the present time the United States have maintained, and from time to time asserted, by sales, pre-emption entries,
27 grants to the State of Louisiana, and other hostile pretentions, their rights as proprietors under the treaty aforesaid, to all of the land within the Houmas grant, as heretofore described, lying behind and back of the line surveyed under the authority aforesaid, at the distance of forty-two lineal arpents from the Mississippi River; that soon after the instructions of the Commissioner of the General Land Office to the surveyor-general, Turner, above-referred to, nearly the whole of the lands in the said Houmas grant situated back of the league and a half line, were surveyed by the United States as public lands of the same, and divided into townships, ranges, and sections under their system provided for the rectangular surveys of their public domain; that all of said back land situate in the divisions of said claim known as the Daniel Clark and the Donaldson and Scott divisions, were so surveyed and divided into sections, townships, and ranges about the years 1829 and 1830, and a very large part of said lands situated in the William Conway claim was about the same time, and has been within the last three years, so surveyed into
28 sections, townships, and ranges.

That many thousands of acres of the said back land in the said Clark and Donaldson & Scott divisions of said grant having been sold

before and during the year 1836, and it appearing that the whole of said land of any value would soon be so disposed of by the United States, J. S. Preston, an owner of a part of said lands, appealed to R. C. Nicholas, then a member of the United States Senate for Louisiana, to induce the United States to desist from such actions on the part of its officers, who, on the 16th June, 1836, wrote to Ethan A. Brown, then Commissioner of the General Land Office, enclosing to him the letter of the said J. S. Preston; that on the following day, to wit, the 17th June, 1836, the said Commissioner wrote the said Senator R. C. Nicholas, admitting that the sales complained of were illegal and made in violation of law, being of lands embraced in a private claim filed before the commissioners for investigation, and not then finally acted on by Congress, and saying he had directed the land offices at New Orleans to cease said sales, and to tell him
29 what lands had been sold, in order that patents for the same might not be issued; that accordingly the said Ethan A. Brown, Commissioner as aforesaid, wrote to the register at New Orleans on said 17th June, 1836, telling him that although he could not recognize the Houmas claim as valid to the whole extent claimed before the board of commissioners, yet as the law had prohibited the sale of any land so claimed, pending final action of Congress upon the claim thereto, the sales already made in the claimed limits of the Houmas grant were illegal, and that no further sales should be allowed; as all of which will, when said letters are produced, the more fully appear.

That on the 2d day of December, 1837, M. Birchard, then Solicitor of the General Land Office, to whom the Commissioner thereof had referred for his opinion and report certain papers relating to the Houmas grant, made his written report to said Commissioner, James Whitcomb, in which he reviewed at great length the facts and law of the same, and gave an equivocal opinion on the same, and hostile thereto, recommending
30 that said Commissioner should refer the whole matter to Congress for decision; that the said Commissioner, on the 3d of April, 1839, wrote to his superior, Levi Woodbury, Secretary of the Treasury, stating the number of sales made in the Houmas claim, the controversy between the claimants thereunder and the settlers who had made purchases of said lands, submitting to him a copy of the Solicitor's opinion of December 2, 1837, aforesaid, and asking his instructions or those of the Attorney-General, what he should do in the premises; that said Secretary of the Treasury referred the matter to the Attorney-General, who, on the 6th of May, 1839, advised him "that Congress alone possessed the power to make a fair and just disposition of the subject in controversy; that much public mischief might arise, should the executive branch of the government proceed to act at that time, and that Congress should be applied to at an early day in the next session, to take such measures as justice to the respective parties might demand."

That the matter was laid before Congress at its next session,
31 but that body took no action thereon at such session, and consequently the Commissioner of the General Land Office on the 3d October, 1840, again applied to the Secretary of the Treasury for instructions, setting forth the absolute necessity of some action, but suggesting, as but a short time would elapse before another meeting of Congress, if it would not be better to defer action until that body would have another op-

portunity to legislate upon the subject; that said Secretary wrote said Commissioner on 31st October, 1840, concurring in his opinion that nothing should be done until Congress should have further opportunity for legislative action.

That in this state of uncertainty and indecision on the part of the executive officers of the government, the then proprietors of the Houmas claim, determined to apply to the United States to issue patents upon the three subdivisions of the same.

That accordingly, some time before the 13th February, 1841, A. F. Rightor, at New Orleans, having a large interest in the William
32 Conway claim, made application to J. Genois, register of the United States land office there, and whose duty it was, under the law applicable to such cases, to issue such instruments of title, for his patent certificate on said claim, and also for such certificate on each of the two other claims composing the said Houmas grant, viz, that of Daniel Clark and that of Donaldson and Scott; that said register declined to issue any of said certificates, and on said 13th February, 1841, wrote to James Whitcomb, then the Commissioner of the General Land Office, Washington City, laying before him the facts of the said application and his reasons for declining the certificates and asking that he be instructed how to proceed.

That on the 30th June, 1841, the said Commissioner instructed the said register to defer action until definitely instructed on the subject by the department.

That on the 6th May, 1836, the surveyor-general of Louisiana had approved a patent or particular plat of the claim of William Conway,
33 made in pursuance of a survey thereof under the authority of the United States, and which recognized said claim as laid before the commissioners in 1806, extending to the Amite River and the Lake Maurepas, and it is believed by your orators that such plat was filed before the register by the said A. F. Rightor when he demanded a patent certificate upon said claim of William Conway aforesaid.

That on the 9th of August, 1841, at Washington City, Isaac T. Preston, acting for the parties in interest, addressed a letter to the Commissioner of the General Land Office, in which, after stating the facts and the law of the Wm. Conway claim, he made application for a patent thereon by virtue of the confirmation of said claim by the act of 18th April, 1841, aforesaid, in which application he reminded said Commissioner of the great injustice which had been visited upon the two claims of Daniel Clark and Donaldson and Scott by the sale of the lands embraced by the same, and prayed that the said patent might issue upon said Conway claim before sales had been made therein and controversies and conflictions of interest should be produced thereby.

34 That the foregoing application by the said Preston for a patent on the said claim of William Conway, it seems was referred by said Commissioner, with voluminous documents accompanying the same, to Charles Hopkins, then Solicitor of the General Land Office, who took the same under consideration, and on the 30th September, 1841, wrote an able report to E. M. Huntington, then Commissioner of the General Land Office, in which he advised the said claim had been confirmed by the act of 18th

April, 1814, to the whole extent claimed before the commissioners, and that a patent should issue accordingly.

That the said report of said solicitor, with a large number of documents, maps, et cetera, relating to the subject, together with a statement of all that had been done in and about the premises by Congress and the executive officers of the United States, was by letter of the 14th February, 1842, from the Commissioner of the General Land Office, E. M. Huntington, submitted to Walter Forward, then Secretary of the Treasury, with
35 the request that said officer would submit the subject to the Attorney General, and afterward instruct him, the said Commissioner, upon certain propositions of law therein stated; adding that the decision sought would also determine executive action upon the other two branches of the Houmas grant, meaning the claim of Daniel Clark and the claim of Donaldson & Scott.

That before any opinion of the Attorney-General was given the Secretary of the Treasury on the 2d August, 1842, returned the papers to the successor of said Commissioner, Thomas H. Blake, for a statement of facts, and that by letter of 9th August, 1842, said Blake wrote McC. Young, then Secretary of the Treasury, giving at length the statement of facts called for; that these being submitted by the said Secretary to the Attorney-General, that officer on the 16th August, 1842, wrote to the said Commissioner, propounding certain questions relating to the practice of the General Land Office in issuing patents on claims, and that on the said 16th August said Commissioner wrote the said Attorney-General giving the information required.

36 That on the 2d September, 1842, the Attorney-General wrote the Secretary of the Treasury that there could be no doubt all the sales of land within the claimed limits of the Houmas grant were null and void ab in'tio, as made in violation of the sixth section of the act March 3, 1811, advising that no more patents be issued on said sales, and that as to those already issued the remedy was with the courts; that said officer did not then or afterwards express his opinion upon the other points submitted to him, especially the point whether or not said claim had been confirmed by the act of 18th April, 1814.

That on the 7th October, 1842, the said Commissioner of the General Land Office, wrote to the surveyor-general of Louisiana telling him he was not authorized, by approving a survey of the William Conway claim, to decide upon its extent or boundaries, until those matters had been decided by the proper authorities; that such claim was before the Attorney-General, and that until he decided it the said surveyor-general had no authority to proceed in the premises.

37 That on the 30th January, 1843, the register at New Orleans issued his patent certificates on the claim of Daniel Clark and the claim of Donaldson and Scott testifying that said claims had been confirmed by the act of 18th April, 1814, and that the interested parties were entitled to patents from the United States in the names of the said confirmees.

That on the 10th February, 1843, the Commissioner of the General Land Office wrote to the said register rebuking him for issuing said muniments of title and directing him to recall the same, saying that the whole question as to the confirmation and limits of the Houmas title had been

submitted to the supervisory power and had not then been definitely settled.

That on the 15th November, 1843, the Secretary of the Treasury wrote to Samuel D. King, an attorney for parties then owning portions of the Houmas grant, declaring that he had not determined, nor would he determine, to what extent the said grant had been confirmed, and informing the said King that that question was for the courts of law or for Con-
38 gress to decide, and on the 1st March, 1844, the Commissioner of the General Land Office wrote to William R. King, a member of the United States Senate, telling him that the executive officers had uniformly declined to issue patents upon any of the portions of the Houmas claim, and would continue to refuse so to do until Congress or the courts should settle the fact and extent of the confirmation of said portions.

That on the 28th May, 1844, W. C. Johnson, at Washington City, therein acting as attorney for owners of the two divisions of the Houmas grant confirmed to Daniel Clark and to Donaldson and Scott, made formal application to the Commissioner of the General Land Office for patents on the same, which said application was on the same day and by the same Commissioner referred to his official superior, the Secretary of the Treasury ad interim, McClintock Young.

And your orators further show:

That finally the Secretary of the Treasury, George M. Bibb, on the 12th August, 1844, wrote to the Commissioner of the General Land Office, Thomas H. Blake, an opinion, in which he revised the whole his-
39 tory of the Houmas land grant and made his final decision thereon, holding that the portions thereof claimed before the land commissioners in 1806 by William Conway, Daniel Clark, and by Donaldson and Scott had been confirmed to them, respectively, by the act of 18th April, 1814, and to the full extent to which said claims were preferred before said commissioners, and that the applications for the patents on said Donaldson and Scott and said Daniel Clark divisions, then before him for decision, ought to be granted, and the patents issued.

That on the 22d of August, 1844, the patents of the United States were accordingly issued and delivered for said Daniel Clark and Donaldson and Scott, parts of the Houmas grant, thereby terminating all power and authority over said claims on the part of the executive department of the Government of the United States.

That on October 24, 1844, the Commissioner of the General Land Office wrote the surveyor-general of Louisiana, informing him the Secretary of the Treasury had decided the Houmas claims as confirmed and entitled to patents; that patents had issued on two of them, and instructing
40 said officer to prepare and send to the register of the land office at New Orleans a special or patent plat of the unpatented claim, viz, the claim of William Conway; and on the same day the said Commissioner wrote said register, informing him of the same facts and proceedings, and intimating that it was then lawful and regular for him to issue a patent certificate upon said claim; that accordingly, on the 25th November, 1844, the said surveyor-general certified a patent or special plat of said claim of William Conway, in order that said register might issue thereon his patent certificates, whereby it appeared that said claim or tract of land, as claimed by Wm. Conway in 1806 before the board of commis-

sioners by whom the same had been confirmed under the No. 125, contained the superficial quantity of 123,519.90 acres of land.

And afterwards the said register made and issued his patent certificate in favor of the said William Conway claim, thereby testifying it had been confirmed by the act of 18th April, 1814, and was entitled to a patent according to the plat aforesaid, approved by the said surveyor-gen-
41 eral on the 25th November, 1844.

That on the 23d September, 1844, Isaac T. Preston, and on the 19th October, 1844, W. C. Johnson, as agents or attorneys for owners of land within the said William Conway claim, made formal application to the Commissioner of the General Land Office asking that a patent for the same might issue, and your orators know of no reason why such patent would not have issued in due course had not the Congress of the United States interfered and by a resolution of the United States Senate passed on the 10th December, 1844, put in issue the power of the executive branch of the government to have issued the patents on the said claims of Daniel Clark, and of Donaldson and Scott, and calling upon the Secretary of the Treasury for full reports of all he had done or caused to be done in the premises, with copies of all arguments, decisions, maps, certificates, surveys, entries, et cetera, in any manner applicable to the Houmas controversy. That the practical effect of such action by the Senate of the United States was to deter the executive officers thereof from issuing at that time
42 the patent upon the William Conway claim, through such officers, as has been shown, were satisfied it was their duty to do so, and that it was the right of the parties in interest to receive the same.

That in obedience to the said resolutions of said Senate, the Secretary of the Treasury did, on the 8th of January, 1845, write to the President of said Senate, sending that body a lengthy report, giving the information called for, which report was subsequently printed and is known as Senate Document No. 45, of the second session of the Twenty-eighth Congress, and contains a great portion of the official letters, decisions, plats, certificates, et cetera, heretofore referred to, and constituting in great measure the title of your orators to the lands hereafter to be more particularly described.

That on the 7th January, 1845, a joint resolution was passed by the House of Representatives of the United States, to wit: "Resolved by the Senate and House of Representatives of America in Congress assembled, that the issuance of grants or other evidences of title upon a Spanish land claim in the State of Louisiana, lying on the Mississippi, above
43 New Orleans, commonly known as the Houmas claim, be, and the same are hereby, prohibited until the further order of Congress in relation thereto." That said resolution failed to pass the Senate for want of time at that session, but, with the resolutions of said Senate aforesaid, of the 10th and 19th December, 1844, it had the effect to induce the Commissioner of the General Land Office thereafter to refuse to issue a patent on the William Conway claim, though specially requested to do so by the President of the United States, as your orators will show.

That on the 3d March, 1845, the owners of the Conway claim wrote to the President requesting him to direct the Commissioner of the General Land Office to do his duty and furnish them the proper evidence of their title as the same had been furnished to the owners of the other portions of the Houmas grant, sending the President a note of the same date from the

Secretary of the Treasury, in which said Secretary stated that the three claims "are confirmed and therefore patents ought to issue, if not already issued, conformably to the opinion" delivered by him.

That in answer to this request, the said President, on the same
44 day, gave to the applicants an order addressed to the said Commissioner, telling him to "issue patents conformably with the above recommendation and opinion of the Secretary of the Treasury," but the said Commissioner still persisted in his refusal so to do.

That on the 12th May, 1845, Isaac T. Preston, as counsel for the owners of the said William Conway claim, again made application for a patent thereon to James Shields, the then Commissioner of the General Land Office, who, on the 24th June following, submitted the same, with a report, to his immediate official superior, Robert J. Walker, Secretary of the Treasury, and asked his instructions in the premises, which instructions the said Secretary failed or declined to give.

That on 26th June, 1846, the Senate and House of Representatives passed a joint resolution in the words and figures following, to wit: "That the Attorney-General of the United States be, and is hereby, directed to examine the evidences of title in the case of a certain Spanish land claim in the State of Louisiana, lying on the Mississippi, above New Or-
45 leans, commonly known as the Houmas claim, and to report his opinion thereon to the President of the United States, and if, in the opinion of the Attorney-General, any patent or patents issued, or which may be issued, under such claim, shall have been, or shall be, issued contrary to law, that the President of the United States be, and is hereby, requested to cause proceedings to be instituted in behalf of the United States, and to have the validity of such patent or patents judicially determined."

That in compliance with said joint resolution Nathan Clifford, Attorney-General of the United States, on the 31st of December, 1847, sent to the President his opinion and report, in which he reviewed at great length the material facts and the law of the Houmas controversy, concluding and so advising the said President that the Houmas claim had not been confirmed by any act of Congress; that the patent certificates, patent plats, patents, and other evidences of title issued thereon were utterly null and void, as issued without authority of law, and advising, finally, that the grant made in 1777 to Maurice Conway was a complete, valid grant,
46 protected by the treaty of Paris of the 30th April, 1803, but only to the depth of 42 lineal arpents from the Mississippi River and no more, and that all the lands within the claimed limits of said grant situated farther from said river than 42 lineal arpents were the public lands of the United States, acquired by them as vacant lands under the treaty aforesaid.

That in due course, and in accordance with the foregoing opinion and report of the said Attorney-General, the President of the United States, some time in the year 1849, instructed the attorney of the United States for the district of Louisiana, at New Orleans, to institute suits in this honorable court, and on the equity side thereof, against Daniel Clark, or his legal representatives, and Donaldson and Scott, or their legal representatives, to have the patents issued to them respectively on the 22d August, 1844, judicially annulled and cancelled, and the lands therein conveyed

declared to be the property of the United States, unaffected by said patents.

That on the 22d November, 1856, a decree was rendered in one of the said suits, No. 1814, against said Daniel Clark and others, declaring said patent inoperative, as having issued without authority of law, and
47 directing that within thirty days after notice of said decree the defendants should surrender the same for cancellation.

That said notice was never given, and has not been given to this day, and said patent remains still outstanding.

That no decree was ever rendered or made in the said suit against Donaldson and Scott, No. 1815, and the same is now at issue and stands ready for argument in this court.

And your orators further show, that on the 2d June, 1858, there was approved an act of Congress entitled "An act to provide for the location of certain confirmed private land claims in the State of Missouri, and for other purposes," whose second section is in the words and figures following, that is to say:

"That the decisions in favor of land claimants made by P. Grimes, Joshua Lewis, and Thomas B. Robertson, commissioners appointed to adjust private land claims in the eastern district of the Territory of Orleans, communicated to the House of Representatives by the Secretary of the Treasury on the ninth day of January, one thousand eight hundred and twelve,
48 and which is (are) found in the American State Papers, Public Lands (Duff Green edition), volume two, from page two hundred and twenty-four to three hundred and sixty-seven inclusive, be, and the same are hereby, confirmed, saving and reserving, however, to all adverse claimants the right to assert the validity of their claims in a court or courts of justice; provided, however, "that any claim so recommended for confirmation, but which may have been rejected, in whole or in part, by any subsequent board of commissioners, be, and the same is hereby, excepted from confirmation."

That said second section acted upon and was intended to act upon and affirm in all things the decision No. 125 in favor of the claim of William Conway, made on the 3d day of March, 1806, by the board of commissioners for the eastern district of the Territory of Orleans if the same had not been so affirmed and approved by the act of 18th April, 1814, and that said section recognized in favor of said William Conway, and all persons lawfully deducing title under him, a full, clear and indefeasible estate, in fee-simple, in all and every portion of the lands
49 claimed by said Conway before said commissioners, and vested in them all title, claim, right or interest whatsoever which the United States had or might have or claim by virtue of the treaty of session by which they acquired the province of Louisiana.

That on the 3d March, 1859, the Congress of the United States passed a joint resolution suspending until the next Congress the said second section of said act of June 2d, 1858, and declaring that in the mean time "no patent or patents shall be issued, nor shall any action be had by the executive branch or department of the government or any officer or agent thereof under or by virtue of said action."

That on the 21st June, 1860, there was approved another act of the said Congress, which is in the words and figures following, to wit:

"Be it enacted by the Senate and House of Representatives of the United States in Congress assembled, that the second section of an act passed the second day of June, one thousand eight hundred and fifty-eight, entitled 'An act to provide for the location of certain confirmed private land claims in the State of Missouri, and for other purposes,' and all other parts of said act which relate to lands in Louisiana, confirmed by said second section (so far as said lands are concerned), be, and the same are hereby, repealed.

"SEC. 2. And be it further enacted, that Congress hereby refuses to confirm to the claimants, under the Houmas grant, the lands embraced in certificates number one hundred and twenty-five to William Conway, number one hundred and twenty-seven to Daniel Clark, and number one hundred and thirty-three to Donaldson & Scott."

Now your orators show that said act, in so far as it purports to repeal said second section of said act of June 2d, 1858, and by force of such repeal to revoke and cancel the grant thereby made to or recognized in favor of your orators, or those under whom they deduce their right, was and is an exercise of power by the legislative branch of the Government of the United States totally unwarranted and unauthorized by the Constitution of the United States and the principles of justice, and was and is utterly null and void. That the title of your orators and those from whom they derive their right stands unaffected in any manner whatsoever by the said repealing act, for the same is an attempt to take private property without compensation—without judicial proceedings, for no crime alleged or proved against the lawful owners thereof, and without any due course of law.

And your orators further show that, after the late civil war in the United States, the office of surveyor-general of the United States in and for the State of Louisiana, and the land offices of the United States in and for said State, were, in due course of time reopened, and the general land system of the said United States for the survey and disposition of their public lands in said State was thus again put in practical operation.

That long prior to said civil war, the United States had, under their system for the survey of their public lands, surveyed into sections and townships large portions of the lands belonging to your orators in said Wm. Conway claim; which said lands, thus surveyed, are described as follows, to wit:

1st. All the lands situate in the fractional township 9 south, in range 4 east.

2d. All the lands situate in the fractional township 8 south, in range 4 east.

3d. All the lands situate in fractional township 8 south, in range 3 east.

4th. All the lands situate in township 9 south, in range 4 east, Which lies within the Wm. Conway claim; and

5th. All the lands situate in fractional township 10 south, in range 3 east, which lies within the Wm. Conway claim and back of the line run 120 arpens distant from the Mississippi River, as surveyed in 1829, as heretofore stated.

That on the 2d of March, 1849, an act of Congress was approved, entitled "An act to aid the State of Louisiana in draining the swamp lands therein," and on the 28th of September, 1850, another act of Congress was approved, entitled "An act to enable the State of Arkansas, and other States to reclaim the swamp lands within their limits," and that under authority alleged to be conferred under one or both of said statutes, the surveyor-general of the United States in Louisiana, on the 1st of May, 1879, made and approved; in behalf of the State of Louisiana, a certain list of swamp-land selections, containing nearly, if not all of the land situated in fractional township 9 south, in range 4 east; which land
53 had been surveyed prior to the civil war as aforesaid; said list of selections, containing $10,745\frac{11}{100}$ acres, and all being within the said Wm. Conway claim.

That under like alleged authority said surveyor-general also, on the 18th of August, 1879, made and approved in behalf of said State, another list of swamp land selections of lands in fractional township 8 south, in range 4 east, which had been surveyed prior to the civil war as aforesaid, said list of selections containing $1,502\frac{31}{100}$ acres, and all being within the said William Conway claim.

The whole of which will, by certified copies of said lists, in due time appear.

That about the year 1877, the Secretary of the Interior and the Commissioner of the General Land Office, both at the city of Washington, made certain rulings and official decisions touching the right of your orators to the lands in the said Wm. Conway claim, which decisions and rulings were so made upon an application by John Burnside, deceased, for a patent on said Wm. Conway claim under the confirmation and
54 grant made by the 2nd section of the act of Congress of June 2, 1858, heretofore referred to, and which decisions and rulings, and certain other decisions and rulings to carry out and enforce the same, are more particularly described as follows, to wit:

A decision made by J. A. Williamson, Commissioner of the General Land Office at Washington City, on the 22d June, 1877, holding that the claim of William Conway had been confirmed for the whole amount claimed by the act of June 2, 1858, but that said act, or the part thereof confirming said claim, had been repealed by the act of June 21, 1860, leaving said claim to the treaty of 30th April, 1803, for its protection, and that by said treaty it was protected as a perfect Spanish grant to the depth of 80 arpens from the river and no more, and directing the surveyor-general of Louisiana to treat the residue thereof as public land of the United States.

Another decision, rendered on the 4th May, 1878, by Carl Schurz, Secretary of the Interior, modifying the aforesaid decision of said J. A. Williamson, Commissioner, etc., and holding that said claim was
55 valid only to the depth of 42 arpens from the river, adopting the opinion to that effect of the Attorney-General, Nathan Clifford, of the 31st December, 1847, heretofore referred to, and which opinion of said Secretary concludes thus: "The lands hereby excluded from said claim will be treated and considered as public land of the United States, and subject to all rules governing the survey and disposal of the public domain."

Another decision or ruling of said Secretary, dated the 9th May, 1878, withholding from disposition for the space of three months, the lands in the William Conway claim, so held by him to be public lands, in order that your orators or some of them, might have time to appeal to the judicial tribunals for the protection of their rights.

Another decision or ruling by the said Secretary, addressed on the 21st June, 1879, to the Commissioner of the General Land Office, directing him to carry into effect his decision of May 4th, 1878, so far as it effected the Conway claim.

Another decision or ruling of the Commissioner of the General
56 Land Office, addressed on the 8th July, 1879, to the surveyor-general at New Orleans, telling him to treat all the land in the William Conway claim back of 42 arpens from the river as public land, and to let contract with his deputies for its survey as such, with general instructions by which to make such surveys.

That under the foregoing decisions, rulings, and instructions, and particularly the last, dated 8th July, 1879, the surveyor-general of the United States in Louisiana, has let the following surveying contracts to certain of his deputy surveyors for the survey as public lands of the United States, nearly the whole of the land in said William Conway claim, which had not been so surveyed prior to the civil war aforesaid, to wit:

1st. A contract made and entered into on the 31st July, 1879, with Owen McLeran, under which contract the said McLeran surveyed about 20,000 acres of land, being all the land in fractional townships 8 and 9 south, in range 6 east, adjacent to and *and* south of the Amite River, and adjacent to and west of Lake Maurepas, which surveys were in due course returned to the office of said surveyor-general, who approved the same in all things.

57 2nd. Another contract made and entered into on the 25th September, 1880, with John Kap, under which contract the said Kap has surveyed about 100,000 acres of land, being all the land in fractional townships 8 and 9 south, range 5 east, and in township 10 south, range 5 east, and has resurveyed fractional townships 8 and 9 south, range 4 east, which had been, as heretofore stated, surveyed prior to the civil war, which surveys were in due course returned to the office of said surveyor-general who approved the same in all things.

3rd. Another contract, made and entered into on the 3d March, 1881, with George H. Grandjean for the survey of parts of fractional townships 10 and 11 south, range 3 east, under which contract the said Grandjean was proceeding to survey as public land the cultivated and improved lands of your orators, or some of them, when restrained by the process of preliminary injunction issued out of this court in the suit of Alfred Slidell et als. vs. George H. Grandjean, No. 9483, in equity, and which said preliminary injunction is still in force.

4th. Another contract, made and entered into on September 6th,
58 1881, with said George H. Grandjean for the resurvey of that portion of township 9 south, range 3 east, situate within the Wm. Conway claim, and which was surveyed before the civil war as aforesaid, and for the original survey of township 10 south, range 4 east, and that part of township 10 south, range 6 east, situate within the Wm. Conway claim, which surveys, when completed, will embrace about 40,000 acres of land within said claim.

That the said contracts, all of which have been executed and returned to the office of the surveyor-general, except the two described under the 3rd and 4th heads, embrace all the land in the William Conway claim situate over 42 arpens from the Mississippi River, so that when said last two contracts shall have been so executed and returned, if ever the same shall be, the whole body of land in said Conway claim, granted and confirmed to your orators, or those from whom they derive their right as heretofore stated, will have been surveyed as public lands of the United States, except the insignificant quantity of about 1,000 acres, situ-
59 ate between the Mississippi River and the line drawn 42 arpens distant therefrom, to which extent, and no more, the executive officers of the United States represent and declare that your orators have a valid and lawful title.

And your orators further show that the surveyor-general of the United States in Louisiana, on the 22d of December, 1879, made and approved two lists of swamp land selections of lands in townships 8 and 9 south, range 6 east, one containing $696\frac{99}{100}$ acres and the other $13,079\frac{19}{100}$ acres, which lists embraced all the swamp and overflowed lands in said townships made thereby unfit for cultivation, and this he did under the pretended authority of said acts of Congress of 2d March, 1849, and 28th September, 1850, or one of them, and as a means of creating in favor of the State of Louisiana a right in said lands adverse to your orators;

That said surveyor-general is at this time preparing, and in course of a few days will make and approve and send to the land office of said
60 State, other lists of selections of swamp lands, which lists will embrace all the swamp and overflowed lands made thereby unfit for cultivation in the townships and fractional townships surveyed by John Kap, as aforesaid, and more particularly described under the 2nd head on page 14 of this bill, which lists will embrace about 75,000 acres of the land belonging to your orators, and this he will do under the pretended authority of the acts of Congress heretofore referred to and approved on the 2d March, 1849, and 28th September, 1850, or one of them, and as a means of initiating a claim in the State of Louisiana to the lands described in said lists.

And that said surveyor-general, or his successor in office, will in like manner, so soon as the other surveys described under the 3d and 4th heads on pages 14 and 15 of this bill shall have been completed and returned to this office, make, approve, and send to said State land office similar lists of swamp land selections of all swamp and overflowed lands in the townships so surveyed, and which are on that account found
61 unfit for cultivation, and this he will also do under the pretended authority of said acts of 2d March, 1849, and September 28th, 1850, or one of them, and as a means of founding a claim to said lands in said lists to be described in favor of said State and against your orators.

And your orators further show that on the 10th June, 1881, the Secretary of the Interior, at Washington City, approved, in behalf of said State, the two lists of swamp land selections described on pages 9 and 10 of this bill, one dated May 1st, 1879, of lands in township 9 south, R. 4 east, and the other dated August 18th, 1879, of lands in township 8 south, range 4 east, which approvals were so made by the said Secretary with the

express reservation of all legal and valid adverse rights, and under color of authority derived from said act of Congress of March 2d, 1849, and as a means of initiating a claim in favor of the said State of Louisiana to the lands described in said lists, so approved by him.

62 That the other lists of selections of swamp land heretofore, on page 16 of this bill, described, made by said surveyor-general on the 22d December, 1879, and of lands in townships 8 and 9 south, range 6 east, are now before said Secretary for his action thereon, and may at any time be approved by him, to the great injury and prejudice of your orators, and to the ruin of their estate in said lands, as heretofore set forth in this bill.

Now, your orators show to your honors that all of the aforesaid decisions, rulings, instructions, surveys, the making of said lists of swamp land selections, and the approval of some of them by the Secretary of the Interior tend to the utter ruin and annihilation of the right of your orators to the lands situate in the limits of the Wm. Conway claim and back of the line drawn 42 arpens from the Mississippi River, and were, and are, so intended by their authors, the executive officers of the United States, and that such hostile action has been and is the consequence of and is designed to enforce the unlawful and unconstitutional repeal of the

63 law granting the whole of said lands to your orators, or those under whom they derived their right, as heretofore stated.

But now so it is, may it please your honors, that one Leon Frémaux, register of lands of the State of Louisiana, in charge of the land office of said State, and authorized under its laws to sell and otherwise dispose of lands belonging to it, taking advantage of the said unlawful rulings, decisions, instructions, surveys, lists of selections, and approvals of lists of selections, heretofore by your orators more particularly set forth, and pretending that the same, or some of the same, have had, or will have, the effect to vest in said State a better right to the lands described, or to be described, in said lists of selections than that of your orators, has been, and is now, engaged in his capacity aforesaid in selling and otherwise disposing of large portions of said lands to any and all persons who will pay the price he asks for the same, or otherwise comply with the laws

64 of said State pertaining to the sale and other disposition of her swamp lands.

That these pretended sales and dispositions of the said lands of your orators, unless restrained by your honors, will have the effect to create a multiplicity of ejectments and other clouds upon the title of your orators to the total ruin of their estate in said lands, and will also encourage large numbers of persons, under the delusion that such pretended sales and other dispositions of said lands are lawful conveyances of title thereto, to enter upon the same, cut and remove large quantities of valuable timber therefrom, and commit divers trespasses and nuisances thereon.

That said Leon Frémaux, register aforesaid, in making such hostile sales and dispositions of said lands has not respected, and does not and will not respect, the act of Congress of 2d March, 1849, and the act of Congress of 28th September, 1850, for that the first of said acts expressly declares that the Secretary of the Treasury (now Interior) shall approve the lists of selections "so far as they are not claimed or held by

65 individuals, and on that approval the fee simple to said lands

shall vest in said State of Louisiana, subject to the disposal of the legislature thereof," and the said act of 28th September, 1850, expressly declares that said Secretary shall issue patents for swamp lands claimed under its provisions, and that on such patents alone, "the fee simple to said lands shall vest in the 'several States,' subject to the disposal of the legislature thereof"; whereas said Frémaux has always, so soon as the mere lists of selections have been received at his office, held himself ready and willing to sell or make other disposition of any tracts of land contained in such lists, and has in fact made a practice of so doing, and has so sold and made other hostile dispositions of large quantities of the lands of your orators, heretofore described as contained in the lists of selections made by said surveyor-general and sent by him to said State land office.

66 And the said Fremaux will in like manner, so soon as the lists of swamp-land selections shall be received by him, and which said surveyor-general is now preparing, and which will embrace about 75,000 acres of the lands of your orators, proceed to sell and make other dispositions of the same, so fast as any one will apply to purchase the same, or otherwise comply with the laws of said State pertaining to the disposition of her swamp lands.

That these sales of swamp lands, before the approval or patenting of the lists of selections containing the same, are totally immoral and unjust, breed confusion and uncertainty in land titles, litigation and bad feeling among men, and suggest so far as they have been made or are being made of lands belonging to your orators in said Wm. Conway claim, a hasty greed on the part of the State of Louisiana to derive a pecuniary profit from the said lands in advance of regular action on her alleged claim thereto by the proper authorities of the United States.

67 That the lists of swamp land selections now being prepared by the said surveyor-general, will embrace all, or nearly all, the lands lately surveyed by John Kap in townships or fractional townships 8 and 9 south, range 4 east, and in townships 8 and 9 and 10 south, range 5 east, as heretofore described, and that said lands will amount to about 75,000 acres, lying in the heart of said Wm. Conway claim, and being more valuable for the timber upon them than any other lands in said claim.

That it is known to your orators, or some of them, that large numbers of persons will eagerly purchase from the said Frémaux such titles as he will give them to the said lands of your orators in said new lists to be described, and that with such colorable titles they will go upon said lands and begin or continue the work of cutting and removing the valuable timber therefrom, which timber alone gives said lands the slightest value whatever:

68 Now your orators show that the said Léon Frémaux, register aforesaid, pretends or will pretend that he is doing, has done, and will do, the acts and things complained of, under and by virtue of certain laws of the United States and of the State of Louisiana, and certain decisions, rulings, and instructions made from time to time by certain executive officers of the United States in the premises, some of which laws, decisions, rulings, and instructions are as follows, to wit:

1st. A decision by the Secretary of the Interior of May 3d, 1881, addressed to the Commissioner of the General Land Office, telling him the State of Louisiana, under the grant to her of swamp lands by the act of

Congress of March 2d, 1849, was entitled, so far as the rights of your orators to the contrary were concerned, to all the swamp lands in said William Conway claim.

2nd. The aid act of Congress, approved March 2d, 1849, entitled "An act to aid the State of Louisiana in draining the swamp lands
69 therein," by which it is pretended the United States intended to grant, and did grant, to the State of Louisiana the lands of your orators in said Wm. Conway claim, found to be unfit for cultivation by reason of their being swamp or overflowed, notwithstanding said grant expressly excepts from its operation lands "claimed or held by individuals," and notwithstanding other good reasons in law and equity, why the United States could not and did not intend to grant the said lands of your orators to said State.

3rd. An act passed by the legislature of said State of Louisiana, and approved by the governor thereof, April 7th, 1880, being act No. 75 of that sesssion of said legislature, whereby the said Fremaux, in his capacity of register of the land office of said State, pretends he has authority, which he constantly exercises, to make sales of your orators' lands, or large portions thereof, as lands donated to the said State under the said act of Congress of March 2d, 1849, and this even before the Secretary of
70 the Interior has approved the lists of selections of said lands made by the surveyor-general, and merely upon the faith and force, as conveyances, of said lists of selections themselves.

But now your orators aver that neither said acts of Congress, or of the legislature of the State of Louisiana, and none of said decisions, rulings, instructions, contracts, or lists of swamp land selections whatever can in any manner authorize or justify any one of the wrongful acts and doings, done or intended, of the said Léon Frémaux, in any manner and form, as heretofore set forth, for that the said acts, decisions, rulings, et cetera, in so far as they pretend or appear to authorize or justify the said wrongful acts, or any of them, are unconstitutional, and hence null and void.

And your orators further show that the said William Conway claim, according to the patent plat thereof made by the surveyor-general of Louisiana, on the 25th November, 1844, contains the superficial quantity of 123,519.90 acres of land, but that nearly all of said land is
71 low and wet, consisting of cypress swamps chiefly if not wholly valuable on account of the timber growing thereon, and that the lists of swamp land selections heretofore made of portions thereof will, with similar lists which will be made from time to time, as the United States continue to survey the same as public land under their unjust claim of right thereto, embrace nearly the whole body of said lands, and the result of this cannot fail to be the utter ruin of your orators' estate in said lands, the creation of a swarm of squatters and trespassers thereon, and a multitude of lawsuits against them.

That already, and for many years past, large numbers of deluded persons have gone upon said lands and fastened themselves there under one pretense of right or another, and many under no claim of right whatsoever, but emboldened thereto by the wrongful pretentions of said Léon Frémaux and his predecessors in said State land office, and all these persons have, and will continue so to do, engaged in the wholesale
72 cutting, removal, and destruction of immense quantities of the

valuable cypress, ash, pine, oak, and other timber of your orators growing on said swamp lands.

And your orators in conclusion show that the sales and other dispositions of their lands which the said L. Frémaux is now making and will, unless restrained by your honors, persist in making, are and will be contrary to equity and good conscience, and tend and will tend to the manifest wrong and injury of your orators in the premises and to the damage of your orators in a sum of one hundred thousand dollars and more.

In consideration whereof, and for as much as your orators can only have adequate relief in the premises on the equity side of this honorable court, where matters of this nature are properly cognizable and relievable, and cannot have a plain, adequate, or complete remedy at law, and are only relievable in equity, your orators pray:

That a restraining order may now be granted, directed to the
73 defendant, Léon Frémaux, register, &c., restraining him from selling, or in any other manner whatsoever alienating or disposing any of the lands within the surveyed limits of the Wm. Conway claim, whether said lands have been selected as inuring to the State of Louisiana as swamp lands under the act of Congress of 2d March, 1849, or 28th September, 1850, or not, and whether, having been so selected, any of said selections have been approved by the Secretary of the Interior or not, and that he desist from any and all manner of interference with said land prejudicial to the right of your orators in the same.

And that it may please your honors and this court to now grant to your orators the writ of subpœna issuing out of this court under the seal thereof, directed to said Léon Frémaux, commanding him by a certain day and under a stated penalty, to appear before this court and answer all the premises aforesaid, and then, after all further proceedings, to abide by such order and decree herein as shall be agreeable to equity and good conscience and to this court.

74 And that it may please your honors and this court on such final hearing of this action to grant to your orators, issuing out of and under the seal of this court, a perpetual writ of injunction, directed to the defendant as register of State lands, and his successors in office, commanding and requiring him and them, under the penalties provided by law, that he and they shall absolutely desist and refrain from selling or in any other manner whatsoever alienating or disposing of any of the lands within the surveyed and established limits of the William Conway claim, as confirmed and granted to your orators by the second section of the act of Congress approved June 2d, 1858, entitled "An act to provide for the location of certain confirmed private land claims in the State of Missouri, and for other purposes," and that he and they shall so absolutely desist whether said lands or any portion thereof have or have not been, or may or may not be, selected by the officers of the United States, as swamp lands
75 inuring to the State of Louisiana, under the acts of Congress, of 2d March, 1849, and 28th September, 1850, or either of said acts, and whether or not any of said selections made or to be made by said officers have or have not been, or may or may not be, approved by the Secretary of the Interior.

And that he and they desist from all and all manner of interference with said lands in said William Conway claim, or any portion thereof, injuriously affecting or prejudicing the right of your orators in the same.

And your orators further pray that they may have such other relief in the premises as shall be agreeable to equity and to good conscience.

(Signed) J. L. BRADFORD,
Solicitor for Complainants.

J. L. Bradford, being sworn, says that he is the solicitor and agent of the complainants in this suit, several of whom are foreign citizens residing out of the United States, and that others are citizens of other States
76 than Louisiana, and reside out of said State; that the facts stated in said bill are true; and matters of belief and information therein stated are believed to be true.

(Signed) J. L. BRADFORD.

Subscribed and sworn before me Nov. 17th, 1881.

(Signed) T. V. COUPLAND,
Comm'r United States Circuit Court, Eastern District of Louisiana.

77 *Order for restraining order.*

Upon reading and due consideration of the foregoing bill, it is ordered that Leon Fremaux, register of the land office of the State of Louisiana, the defendant herein, shew cause on Monday, the 21st day of November, 1881, at 11 o'clock a. m., why an injunction should not issue herein as prayed for, and in the mean time that a restraining order issue, restraining said defendant from doing anything further in the premises until the further orders of the court.

November 18th, 1881.

(Signed) DON A. PARDEE, *Judge.*

Marshal's return.

Received November 18th, 1881, by the U. S. marshal, and on the 19th day of Nov., 1881, I served a true copy of the within order on Leon Fremaux, register State land office, by handing the same to him in person in his office in the state-house in this city.

Nov. 19th, 1881.

(Signed) JESSE WHARTON,
D'y Marshal.

78 *Restraining order.—Issued Nov'r 18th,* 1881.

UNITED STATES OF AMERICA:

Circuit court of the United States, fifth judicial circuit & eastern district of Louisiana.

ALFRED SLIDELL ET AL.
vs.
LEON FREMAUX, REGISTER STATE LAND OFFICE. } No. 9684.

To Leon Fremaux, register of the State land office in and for the State of Louisiana, greeting:

Whereas it has been represented unto us in our said circuit court, on the part of Alfred Slidell and others, in a bill in equity lately exhibited

against you, touching certain matters and things therein set forth; and whereas the honorable Don A. Pardee, one of the judges of our said court, upon due consideration thereof, has made and allowed an order in said cause, whereby you are required to show cause, on the 21st
79 day of November, 1881, at 11 a. m., why an injunction should not issue as prayed for in said bill of complaint; and whereas the said judge has granted and allowed an order restraining you, immediately and forthwith, and during the pendency of said motion for an injunction, to the full extent and effect as prayed for in said bill of complaint:

Now, therefore, in consideration of the premises and of the allegations in said bill contained, you, the said Leon Fremaux, register of the State land office, in and for the State of Louisiana, your agents, attorneys, and servants, and each of you, are hereby commanded and strictly enjoined, under the penalty of the law, that you, and each of you, absolutely refrain and desist from selling or in any other manner whatsoever alienating or disposing of any of the lands within the surveyed and established limits of the William Conway claim, in the parishes of Livingston and Ascension, as confirmed and granted to William Conway, by the second section of the act of Congress approved June 2d, 1858, and that you so abso-
80 lutely desist, whether said lands or any portion thereof have or have not been, or may or may not be, selected by the officers of the United States as swamp lands inuring to the State of Louisiana under the act of Congress of 2d March, 1849, and 28th Sept'r, 1850, or either of them, and whether or not any of said selections made or to be made by said officers, have or have not been, or may or may not be, approved by the Secretary of the Interior of the United States, and that you, the said Leon Fremaux, register as aforesaid, your agents, attorneys, and servants, and each of you, remain so inhibited and restrained until the further order of our said court in the premises.

Witness the honorable Morrison R. Waite, chief justice of the Supreme Court of the United States, this 18th day of November, in the year of our Lord one thousand eight hundred and eighty-one.

[SEAL.] (Signed.) T. V. COUPLAND,
D'y Clerk.

81 *Marshal's return.*

Received, Nov. 18th, 1881, by the U. S. marshal, and on the 19th day of Nov., 1881, I served a true copy of the within restraining order on Leon Fremaux, register of the land office of the State of Louisiana, by handing a copy of the same to him in person in his office in the state-house in this city.

Nov. 19th, '81.

(Signed) JESSE WHARTON,
D'y Marshal.

Subpœna in chancery to Leon Fremaux, register of the land office of the State of Louisiana.—Issued November 18th, 1881.

UNITED STATES OF AMERICA:

The President of the United States to the marshal for the eastern district of Louisiana, greeting:

You are hereby commanded to summon Léon Frémaux, register of the

land office of the State of Louisiana, to appear before the honorable the judges of the fifth judicial circuit of the United States of America,
82 at a circuit court to be holden on the first Monday of January, 1882, then and there to answer a bill in chancery, filed against him, wherein Alfred Slidell et al. are complainants, and said Leon Frémaux, register of the land office of the State of Louisiana, is defendant.

Herein fail not, and have you then and there this writ, with your endorsement thereon, how you have executed the same.

Witness the honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States of America, this 18th day of November, in the year of our Lord one thousand eight hundred and eighty-one, and the 106th year of American Independence.

[SEAL.] (Signed) T. V. COUPLAND,
D'y Clerk.

The defendant is hereby notified that he is required to enter his appearance in the clerk's office of the United States circuit court on or before the first Monday of January, 1882; otherwise the bill may be taken pro confesso.

(Signed) T. V. COUPLAND,
83 *D'y Clerk.*

Marshal's return.

Received November 18th, 1881, by the U. S. marshal, and on the 19th day of November, 1881, I served a true copy of the within subpœna in chancery on Leon Fremaux, register of the land office of the State of Louisiana, by handing the same to him in person in his office in the state-house, in this city.

Nov. 19th, 1881.

(Signed) JESSE WHARTON,
D'y Marshal.

Continuance of application for injunction.—Extract from the minutes, November term, 1881.

NEW ORLEANS, *Monday, Nov'r* 21*st*, 1881.

Court met pursuant to adjournment.

Present, Hon. Don A. Pardee, circuit judge.

ALFRED SLIDELL ET AL.
vs.
LÉON FRÉMAUX, REGISTER, &C. } No. 9684.

84 This cause came on to be heard on the complainants' application for an injunction pendente lite—J. L. Bradford for complainants; J. C. Egan, attorney-general, for defendant—and thereupon, with the leave of the court first had, it was agreed that the matter stand over until Monday, 28th instant, at 11 a. m.

Defendant's answer.—Filed November 28th, 1881.

U. S. circuit court, eastern district of Louisiana.

ALFRED SLIDELL ET AL.
vs.
LEON FREMAUX, REGISTER OF LAND OFFICE, State of La. } No. 9684.

To the honorable the judges of the circuit court of the United States for the fifth judicial circuit and eastern district of Louisiana:

Answer of Leon Fremaux, register of the land office of the State of Louisiana to the bill of complaint of Alfred Slidell et al., complainants.

This defendant, not admitting or confessing the truth of any of
85 the averments of said bill, but reserving the benefit of all legal exceptions and objections thereto, for answer says:

1°. This defendant shows that the title to the lands referred to in complainants' bill is vested in the State of Louisiana, and not in this respondent, who is merely one of the executive officers of said State, charged under the law with the keeping of an account of the sales of public lands, and the issuance of warrants for the lands disposed of, but without any authority to represent the State or to defend her interests in this or any other proceeding in court. And your respondent further shows that the governor of the State alone has the power to issue patents for and convey the title of the State to lands sold or disposed of.

2°. This respondent further shows that the State of Louisiana, though a necessary party to this suit, has not and cannot be impleaded as a defendant, and that this court is without power, right, or jurisdiction to
86 grant any relief or to proceed to a final decree in the premises affecting her interests, and that the rights of the State cannot be reached by means of this suit against your respondent, who has no authority to represent the State herein by virtue of his office. Your respondent therefore avers that this court is without jurisdiction in the premises to proceed with the cause or to grant any relief in the premises.

3°. Respondent further shows that it appears from an inspection of complainants' bill, that the title to the lands described therein is in dispute between themselves and the State of Louisiana, and has never been determined in complainants' favor by a suit at law, and that complainants were, at the date of filing said bill, out of possession thereof, and it would seem to your respondent that the sole purpose of this suit is to try title and not to prevent a cloud being put upon the same or to save a multiplicity of suits. Respondent therefore avers that this cause is not of
87 equitable cognizance, and complainants are not entitled to invoke the aid of this honorable court in the premises in the manner and form prayed in said bill.

And your respondent, without waiving any of the foregoing exceptions, but claiming the full benefit thereof, as if formally raised by demurrer, for further answer says:

4°. That the lands described in complainants' bill were and are swamp lands, rendered thereby unfit for cultivation, and that as such they were

donated to the State of Louisiana by the United States under the acts of Congress of the United States of March 2d, 1849, and 28th September, 1850, and that they have since been surveyed, listed, and some of them patented to the State of Louisiana under the provisions of said acts; that the said act of 1849 donated the said lands in terms of present grant, thereby giving to the State a perfect title in fee simple from the date of the passage of the same.

And your respondent avers that the State of Louisiana is now, and has been ever since the 2d day of March, 1849 and 1850, the sole owner
88 of said lands.

5°. Respondent is advised, and so avers, that the alleged grant to Maurice Conway was a good and perfect grant from the Spanish Government only to a depth of 42 arpents back from the Mississippi River and no further; and to that extent alone was it protected by the treaty of 1803, by which the Territory of Louisiana was ceded to the United States; and your respondent avers that William Conway, through whom complainants claim title to the lands in dispute, himself believed that said alleged grant was incomplete, for it appears that he went before the board of commissioners to adjust private land claims in Louisiana, and submitted his claim to the lands now in dispute for confirmation; but respondent shows that the report of said board was not acted upon until 1858, and he avers that the title to all the lands claimed by the said William Conway remained
89 in the United States notwithstanding the pendency of said claim until 1849, when they were donated, without any reservation in favor of the Houmas claimants, to the State of Louisiana, as aforesaid. And so respondent avers that, even if the act of 1858, which it is pretended confirmed the claim of William Conway, was not repealed by the act of 1860, the State of Louisiana acquired a perfect title prior in point of time to that asserted by the complainants.

Respondent further avers that all surveys, survey plats, and patent plats made by any of the executive officers of the Houmas claim prior to the act of 1858 were without authority of law and null and void; that such officers were powerless to define the limits of said grant, or to create a title in the claimants to the lands claimed to be included in it, until after confirmation by Congress, and that no survey has ever been made under the act of 1858. This respondent further avers that even if the act of 1858 could give complainants a title to any lands whatever, it would
90 only be after a survey had been made fixing the boundaries thereof and the issuance of a certificate as provided therein, and that until then complainants have no standing in court to assert title.

6°. Respondent further shows that, should the William Conway portion of the Houmas claim, as favorably reported by the board of commissioners, and as claimed to have been confirmed by said act of 1858, be officially surveyed, it will appear that a large portion of the land in dispute is evidently outside of the limits of said claim, the lines of which extend back a distance of 351 arpents from the Mississippi River on the upper side, and 455 arpents on the lower side, neither of which, however, reach the Amite River, or Lake Maurepas, as will more fully appear from a reference to affidavit Exhibit A, made a part hereof.

And your respondent shows that the following lands, described in complainants' bill, are outside of the limits of that part of the Houmas

91 claim alleged to have been confirmed: The whole of township No. 9, R. 5 & 6 east. The fractional township No. 8, range 5 & 6 east. The greater portion of township No. 9, range 4 east. The greater portion of township No. 10, range 4, 5, & 6 east.

7°. Respondent denies that the provisos in act of March 3d, 1811, had the effect to withdraw the land covered by the Houmas claim from the power of the United States to grant the same land, pending the decision of Congress and the report of the board of commissioners. But on the contrary he is advised that said provisos did not operate as a bar to the rights of Congress to revoke the proviso and dispose of the land agreeably to any new policy adopted from time to time; that said provisos simply directed the officers of the government not to offer said lands for sale, but did not bind any subsequent Congress.

8°. Respondent further says that he has acted in the premises throughout simply as an officer of the State of Louisiana pursuant to law,
92 and that he has no purpose to injure the complainants in their rights, or to subject them to a multiplicity of suits.

And respondent shows that he has made some sales of the lands granted to the State as aforesaid after the proper selections had been made and certified to the State of Louisiana, but he denies that he has made or proposes to make sales of such land in advance of such selections, and he submits that he has a perfect legal and moral right to sell any land listed to the State as granted by said acts of 1849 and 1850 without waiting for the issuance of patents, which, it appears from said bill, will issue as a matter of course, since the title to these lands has been determined by the executive departments of the United States to belong to the State of Louisiana.

9°. Respondent, further answering, shows that the complainants cannot invoke the equitable jurisdiction of this honorable court for the purpose of trying title to the lands in dispute with the State of Louisiana under color of a bill to prevent a cloud, and to save a multiplicity of
93 suits, especially in a case to which the State is not a party; that any decree which the court may render in their favor will be fruitless and of no substantial benefit, inasmuch as the State can at any time convey said lands by legislative grant, unaffected by a judgment againt this respondent.

And having fully answered said bill, or so much thereof as respondent is advised it is necessary for him to answer, respondent prays that he may be hence dismissed with his costs.

And he will ever pray, etc.

(Signed) L. FRÉMAUX,
Register, Respondent.

(Signed) ROUSE & GRANT,
Solicitors for Respondent.

UNITED STATES OF AMERICA,
Eastern District of La., ss:

Leon Frémaux, register of the land office of the State of Louisiana, respondent, being first duly sworn, says that the statements of fact made by him in the foregoing answer are true so far as stated upon his

94 own knowledge, and that so far as stated on information he believes the same to be true.

(Signed) L. FRÉMAUX.

Sworn and subscribed to before me this 26th day of November, A. D. 1881.

[SEAL.] (Signed) ED. A. PEYROUX, *Not. Pub.*

Sworn to in presence of—

(Signed) E. BERTÉ, *Secretary.*

Hearing & submission of application for injunction.—Extract from the minutes of Nov. 28, 1881.

ALFRED SLIDELL ET ALS. *vs.* LÉON FRÉMAUX, REGISTER, &C. } No. 9684.

This cause came on to be heard on the complainants' application for an injunction pendente lite—J. L. Bradford, for complainants; Rouse & Grant for defendant—and was argued by the said counsel of the said parties respectively, and submitted. Whereupon the court took time to consider, and allowed said counsel three days to submit briefs.

95 *Order granting injunction pendente lite.—Extract from the minutes of December 24th,* 1881.

ALFRED SLIDELL ET ALS. *vs.* LÉON FÉMAUX, REGISTER, &C. } No. 9684.

This cause came on to be heard on the complainants' application for an injunction pendente lite, and was argued by counsel; on consideration whereof it is ordered that an injunction pendente lite issue herein, restraining and enjoining the defendant in manner and form and to the extent prayed for in said complainants' bill of complaint.

Injunction to Léon Frémaux, register, &c.—Issued December 24, 1881.

UNITED STATES OF AMERICA,

The President of the United States:

Circuit court of the United States, fifth circuit and eastern district of Louisiana.

ALFRED SLIDELL ET ALS. *vs.* 96 LÉON FRÉMAUX, REGISTER OF THE LAND office of the State of Louisiana. } No. 9684.

To Léon Frémaux, register of the land office of the State of Louisiana, greeting:

Whereas it has been represented to us in our said court, on the part of

Alfred Slidell and others, in a bill in equity lately exhibited against you, touching certain matters and things therein set forth:

Now, therefore, in consideration of the premises and of the allegations in said bill contained, you, the said Léon Frémaux, register of said land office, your attorneys, clerks, and servants, and each of you, are hereby commanded and strictly enjoined, under the penalty of the law, that you absolutely refrain and desist from selling or in any other manner whatsoever alienating or disposing of any of the lands within the surveyed and established limits of the William Conway claim as confirmed and granted to said complainants by the second section of the act of Congress
97 approved June 2d, 1858, entitled "An act to provide for the location of certain confirmed private land claims in the State of Missouri, and for other purposes," whether said lands or any portion thereof have or have not been or may not be selected by the officers of the United States as swamp lands inuring to the State of Louisiana under the acts of Congress of 2d March, 1849, and 28th September, 1850, or either of said acts; and whether or not any of said selections made or to be made by said officers have or have not been or may or may not be approved by the Secretary of the Interior; and that you desist from all and all manner of interference with said lands in said William Conway claim or any portion thereof injuriously affecting or prejudicing the right of said complainants in the same; and you are so enjoined and restrained during the pendency of said cause.

Witness the honorable Morrison R. Waite, Chief Justice of the
98 Supreme Court of the United States, at the city of New Orleans, this 24th day of December, in the year of our Lord 1881.

[SEAL.] (Signed) F. A. WOOLFLEY, *Clerk.*

Marshal's return.

Received Dec. 27th, 1881, by the U. S. marshal, and on the same day, month, and year I served a true copy of the within injunction on Léon Frémaux, register of the land office of the State of Louisiana, by handing the same to him in person, in the city of New Orleans.

(Signed) E. S. CURRY,
D'y U. S. Marshal.

Replication.—Filed December 28th, 1881.

United States circuit court, 5th circuit, e. dist. of Louisiana.

ALFRED SLIDELL ET ALS.
vs.
LEÓN FRÉMAUX, REGISTER OF STATE LANDS, &C. } In equity. No. 9684.

99 The replication of the complainants in the above-entitled cause to the answer of Léon Frémaux, defendant.

These repliants, saving and reserving unto themselves now and at all times all and all manner of benefit and advantage of exception which may be had or taken to the manifold insufficiencies of the said answer, for replication thereunto say that they will aver, maintain, and prove their said bill of complaint to be true, certain, and sufficient in law to be answered

unto, and that the said answer of the said defendants is uncertain, untrue, and insufficient to be replied unto by these repliants, without this, that any other matter or thing whatsoever in said answer contained, material or effectual in the law to be replied unto, and not herein and hereby well and sufficiently replied unto, confessed or avoided, traversed or denied, is true.

All which matters & things these repliants are and will be ready
100 to aver, maintain, and prove, as this honorable court shall direct, and humbly pray as in and by their said bill they have already prayed.

By their counsellor.

(Signed) J. L. BRADFORD.

Extract from chancery order-book.—December 28th, 1881.

ALFRED SLIDELL ET ALS.
vs.
LEÓN FRÉMAUX, REGISTER, &C.

The complainants herein, by J. L. Bradford, their solicitor, have this day filed their replication to the answer of the defendant filed herein.

Motion to suppress plan filed by defendant.—Filed December 28th, 1881.

U. S. circuit court, 5 c't & e. dist. of La. In equity.

ALFRED SLIDELL
vs.
LEÓN FRÉMAUX. } No. 9684.

101 On motion of J. L. Bradford, solicitor for complainants in the above-entitled cause, and on suggesting to the court that the map or plan of the William Conway division of the Houmas grant, certified by O. H. Brewster, surveyor-general, as a copy from the original on file in his office, and which plan or copy was offered and filed in evidence by the defendant herein on the trial of the motion for an injunction, pendente lite herein, is an erroneous and fraudulent plan, and in a material matter differing from the original of which it purports to be a copy.

And on further suggesting to the court that the party obtaining said fraudulent copy from the surveyor-g eneral's office (not being the solicitor of record for defendant herein) intentionally caused the clerk who made the same to interpolate lines, words, and figures thereon not found upon or in the original, and that this was done purposely to mislead the court and to defraud the complainants.

102 It is ordered that the complainants show cause, if any they can, on the day of at o'clock, why the said plan should not be taken from the files and suppressed as fraudulent and untrue.

Order : Motion to suppress plan to be heard on final hearing of cause.—Extract from the minutes of Dec'r 28th, 1881.

ALFRED SLIDELL ET ALS.
vs.
LÉON FRÉMAUX, REGISTER, &C. } No. 9684.

In this case it is ordered by the court that plaintiffs' motion to suppress, this day filed, be heard when the case will come up for final hearing.

Amendment to answer.—Filed January 23d, 1882.

U. S. circuit court, eastern dist. of La.

ALFRED SLIDELL ET ALS.
vs.
LÉON FRÉMAUX, REGISTER STATE LAND OFFICE. } No. 9684.

Amendment to the defendant's answer to be inserted after article
103 No. 7.

And defendant, further answering, says the alleged grant made to Maurice Conway of lands lying back of the 42 arpents in depth, if any such grant actually existed, which is denied, was but a floating, imperfect, and incohate grant, not protected as a complete title under the treaty of 1803 or the general law of nations; that the sole right of Wm. Conway at the date of the cession consisted of a claim against the United States to have such incohate title perfected into a legal one.

And defendant shows that the said Wm. Conway himself considered his title to be of that imperfect character, for he went before the board appointed to adjust private land claims in La. under the act of 2nd March, 1805, and submitted his claim for confirmation, instead of resting content with a registry of his titles with the register, under the provisions of said act; that his claim was considered and reported upon favorably, but
104 that such favorable report was not confirmed until 1858.

Defendant further shows that Congress made further provision by the act of July 4th, 1832, for settlement of all unconfirmed claims to grants of lands in La., but the holders of the Wm. Conway claim refused and neglected to avail themselves of its provisions, and finally, for the purpose of compelling all claimants to litigate and settle their rights with the government, Congress, on the 17th day of June, 1844, passed an act extending the provisions of the act of Congress of May 26th, 1824, entitled "An act enabling claimants of land within the limits of the State of Missouri and Territory of Arkansas to institute proceedings to try the validity of their claims," to Louisiana. Now, defendant shows that by the provisions of said act of 1824, as such extended to Louisiana, all claims as the William Conway grant were required to be presented and filed before the district court of the United States for the district of Louisiana
105 within two years from the 17th day of June, 1844, or be forever barred, and that after being so barred no other action at law or in equity should ever thereafter be sustained touching such claim, and providing that the lands included in all claims so barred should "be held and

taken as part of the public domain, subject to the same disposition as other public land in the district."

Defendant avers that the Wm. Conway claim to the lower part of the so-called Houmas grant came, from its character, within the provisions of the said act of 1824, as extended to the State of Louisiana aforesaid, and that it was not presented to the United States district court for the district of Louisiana, as required by said acts, or to any other court of the United States or of the State, within the time prescribed by said acts, nor had said claim ever been so presented.

This defendant therefore says that the said claim of Wm. Conway became and was barred by the 5th section of the act of 1824 aforesaid on the 17th day of June, 1846; and that the lands included
106 therein became thereafter, by virtue of the 7th section of said act, public and subject to grant or sale by the United States; that said claim being so barred and forfeited, it had no existence in the eyes of the law at the date of the passage of the act of 1849—1850, donating the lands in dispute to the State of Louisiana, and was not protected by any proviso of the act of 1849 or any prior act.

(Signed) ROUSE & GRANT, *Sol's.*

This amendment to answer of respondent filed with consent, complainants reserving all legal exceptions. Oath of respondent to this amendment waived.

(Signed) J. L. BRADFORD,
For Complainants.

Let the within amendment be filed as part of defendant's answer.
New Orleans, January 23d, 1882.

(Signed) EDWARD C. BILLINGS, *Judge.*

107 *Certified copies of letter, &c., of register of land office.—Filed May 1st, 1882.*

D. DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., Feb'y 25th, 1882.

I, N. C. McFarland, Commissioner of the General Land Office, do hereby certify that the annexed copies of letters, a patent certificate, and a tracing of a diagram and descriptive notes of survey are true and literal exemplifications of papers on file in this office pertaining to the Houmas grant in the State of Louisiana.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] (Signed) N. C. McFARLAND,
Commissioner of General Land Office.

LAND OFFICE, NEW ORLEANS,
November 15th, 1858.

108 SIR: On the 7th Dec., 1844, Peter Laidlaw, then register at New Orleans, forwarded patent certificate No. 5 in favor of Wm. Con-

way for lands designated in plat returned with Sur.-Gen'l's letter of 3d Dec., 1844, as being in townships 8, 9, & 10 S., of ranges 3, 4, 5, & 6 east, containing 123,516.90 acres reported by the old board of commissioners for the eastern district of the then Territory of Orleans, on 3d March, 1806, per certificate No. 125 in said report, & confirmed by act of Congress entitled "An act concerning certificates of confirmation of claims to lands in the State of Louisiana," approved 18th April, 1814.

At the request of the parties interested, and pursuant with act of Congress approved 2d June, 1858, I now return a new patent certificate, accompanied by plat of survey, approved and certified by the surveyor-general.

I am, sir, very respectfully, your ob't serv't,

LOUIS PALMS,
Register.

Hon. T. A. HENDRICKS,
109 *Comm'r, &c., Washington, D. C.*

Patent certificate No. 125.

LAND OFFICE AT NEW ORLEANS,
STATE OF LOUISIANA,
Fifteenth day of November, 1858.

It is hereby certified that in pursuance to the act of Congress passed on the second day of June, 1858, entitled "An act to provide for the location of certain confirmed private land claims in the State of Missouri, and for other purposes," William Conway was confirmed in his claim to a tract of land situated in the county of Acadia, numbered 125 in the report of the old board of commissioners, dated 3d March, 1806, designated as being in township Nos. 8, 9, & 10 of ranges Nos. 3, 4, 5, & 6, containing 123,516 $\frac{9}{100}$ths acres as per plat herewith:

Now, therefore, be it known that, on presentation of this certificate to the Commissioner of the General Land Office, William Conway shall be
110 entitled to receive a patent for the land above described.

LOUIS PALMS,
Register of the Land Office.

Plat of survey attached to the foregoing patent certificate.

(Here follows map marked page 110.)

111 MY DEAR SIR: The register of land office here has forwarded to the Commissioner patent certificate for the claim confirmed to Conway.

The parties interested, and I am one of them, are very anxious to sell the land as soon as possible, and I shall feel under great obligations to you if you will have the necessary directions given for the prompt issue of the patent.

I shall leave here on 26th inst. for Washington.

Yours, respectfully,

JOHN SLIDELL.

JOSEPH S. WILSON, Esq.
N. ORLEANS, 17 *Nov.*, '58.

(Here follows map marked page 112.)

113 *Certified list of State pre-emptions and declaratory statements.—Filed May 1st, 1882.*

Abstract of pre-emption & declaratory statements, act 38, March 16, 1870.

No.	Date of filing.	Name of pre-emptor.	Part of section.	Section.	Towns.	Range.	Area.	District.	Remarks.
8	Aug. 1, 1881	August Miessner	W. ½ of W. ½	36	9 S.	5 E.		SE. E. of R	
9	"	Louis Kneipper	SE. ¼ of SE. ¼	24					
			E. ½ of NE. ¼, NE. ¼ of SE. ¼	25	9 "	5 "		"	
10	"	Gustave Cambre	SW. ¼ of SE. ¼	25					
			W. ½ of NE. ¼, NW. ¼ of S. E. ¼	36	9 "	5 "		"	
11	"	George Steiger	Lots 3, 4	32	9 "	6 "		"	
			E. ½ of NW. ¼	5	10 "	6 "		"	
12	"	John Frederick Miller	Lot 6	33	9 "	6 "		"	
			W. ½ of W. ½	4	10 "	6 "		"	
14	"	Henry Roth	S. ½ of N. ½	13	9 "	5 "		"	
15	"	Mrs. Laurence Corde	SE. ¼	13	9 "	5 "		"	
16	"	Bernard Whipker	S. ½ of N. ½	24	9 "	5 "		"	
17	"	Charles Balfautz	NE. ¼	8	10 "	5 "		"	
18	"	August Hollocher	NW. ¼ of SE. ¼, W. ½ of NE. ¼	25	9 "	5 "		"	
19	"	George Pfister	W. ½ of W. ½	1	10 "	5 "		"	
20	"	Laust Thompson	N. ½ of SE. ¼	21					
			N. ½ of SW. ¼	22	10 "	5 "		"	
21	"	Frank Scharwath	NE. ¼	21	10 "	5 "		"	
22	"	Frank Salzmann	W. ½ of E. ½	15	10 "	5 "		"	
23	"	Christian Hoehle	SW. ¼	15	10 "	5 "		"	
24	"	Gottfried Sartorious	E. ½ of NE. ¼	15	10 "			"	
			W. ½ of NW. ¼	14	10 "	5 "		"	
25	"	George Hom	S. ½ of S. ½	2	10 "	5 "		"	
28	"	George Salzmann	SE. ¼	35	9 "	5 "		"	
31	"	Knod M. Nelson	S. ½ of NE. ¼, N. ½ of SE. ¼	10	10 "	5 "		"	
33	"	Philip Will	N. ½ of S. ½	24	9 "	5 "		"	
34	"	William Pfister	NW. ¼	27	9 "	5 "		"	
35	Nov. 7, 1881	Alcide Dupuy	SW. ¼ & NE. ¼ of SW. ¼, S. E. ¼ of NW. ¼	39	8 "	5 "		"	
			NW. ¼ of N. W. ¼	3	9 "	5 "		"	
114									
36	Nov. 7, 1881	Robert Anderson	NE. ¼ of NE. ¼	4	9 S.	5 E.		SE. E. of R	
			SE. ¼ of SE. ¼, lot 1.	40					
			Lots 3, 6	39	8 S.	5 "		"	
37	" 10. "	Andrew, James, John, Louis, and Maria Smiley, heirs of Sam'l Smiley, dec'd.	Lots 1, 4, 5, 7, SE ¼ of S. W. ¼.	39	8 S.	5 "		"	Declaration for pre emption.

STATE LAND OFFICE,
New Orleans, La., Dec. 29, 1881.

I certify the above and foregoing to be a extract from the records of this office, showing all the pre-emptions and declaratory statements for pre-emptions filed within the limits of the " William Conway " claim.

Witness my hand and seal of office this twenty-ninth day of December, 1881.

[SEAL.] (Signed) L. FRÉMAUX,
Register of State Lands.

115 *Admissions of counsel of January 4th, 1882, and of April 20th, 1882.—Filed May 1st, 1882.*

United States circuit court, 5th circuit and eastern district of Louisiana.

ALFRED SLIDELL ET ALS.
vs.
LEON FREMAUX, REGISTER, &C. } In equity. No. 9684.

For the purposes of this suit only, the following admissions are hereby made by the parties thereto:

1st. It is admitted that no land in the limits of the Wm. Conway division of the Houmas grant, as claimed before the old board of commissioners and by them acted upon favorably in the year 1806, and as confirmed by the 2nd sec. of the act of Congress of June 2d, 1858, has ever been surveyed by the United States under the "radiating lot system" prescribed by sec. 2 of the act of Congress of March 3d, 1811, vol. 2 of the U. S. Stats. at Large, p. 662, or under the same system as modified
116 by sec. 1 of the act of Congress of May 24th, 1824, vol. 4, of the U. S. Stats. at Large, p. 34.

2nd. That the State of Louisiana, acting through defendant, as State register of lands, and the governor of said State, has heretofore made many sales to many individuals of the lands claimed by complainants in their bill of complaint, and has also granted to many other persons homestead and pre-emption rights upon said lands, all of which has been done, however, under the claim of said State to said lands, as inuring to her as swamp and overflowed lands under the legislation of Congress granting such lands to the States in which they are situated, and that but for the restraining order and injunction pendente lite in this suit granted, the said State would in like manner have continued so to sell said lands and to grant pre-emption and homestead rights thereupon.

3rd. That these sales have been made and pre-emption and
117 homestead rights granted only of and for lands in said Wm. Conway division of said Houmas grant embraced and described in lists of selections of swamp and overflowed lands, compiled and certified by the United States surveyor-general in Louisiana and by him furnished to theState land office, whereof defendant is register, and without regard to the fact whether or not such lists, or any of them, had first been approved by the Secretary of the Interior.

4th. That since the bill in this case was filed the lists of swamp-land selections of all the swamp and overflowed lands in the townships alleged in said bill to have been surveyed by John Kap, deputy surveyor, under his contract dated 25th September, 1880, have been filed in or sent to the State land office by the surveyor-general, said lists aggregating about fifty thousand acres of land, all of which is within the claimed limits of said Wm. Conway grant; and that for a large quantity of said lands,
118 before the receipt of the said lists of selections thereof, and the township maps of survey thereof, and before the filing of this bill, the defendant, as State register, permitted a large number of persons, alleged to be actual settlers, to file in his office applications, accompanied with affidavits of the applicants and of witnesses, and with plats or dia-

grams approximately describing the land in each case, for rights of pre-emption thereon, and that defendant issued to each of said applicants a certificate, under his hand and the seal of said office, testifying that such person had so filed his said application for a pre-emption right under the act of the legislature of the State of La., No. 38, approved March 16th, 1870, and describing the land so applied for. But defendant does not admit, but denies, that any land embraced in said lists of selections founded on said surveys of John Kap are within the limits of the Conway claim, as confirmed by the act of June 2nd, 1858.

119 That whatever right, title, claim, or interest William Conway had, or could have had, in any lands in his said claim under the Spanish grant to Maurice Conway of the 21st June, 1777, or the alleged confirmation by the 2d section of the act of Congress of June 2d, 1858, it is admitted the complainants have and are entitled to under derivative titles deduced from him.

Complainants admit that the lower side line of the Wm. Conway claim, described in the report of the commissioners as 455 arpents in length, lacks about 125 arpents of reaching Lake Maurepas, and that the upper side line, described as 351 arpents in length, lacks about 45 arpents of reaching the Amite River; in other words, the true length of the lower side line is about 125 arpents more than the length represented in the decision of the Commissioner, and the true length of the upper side line is about 45 arpents more than the length represented in said decision.

120 Complainants further admit that the great mass of the lands involved in this controversy, whether situated within the limits of the Wm. Conway claim, as those limits are claimed by them, or whether within the limits as claimed by respondent, are swamp lands, unfit for cultivation without artificial draining, as described in the act of 2d March, 1849, granting swamp lands to Louisiana.

Complainants believe, and so admit, that perhaps one hundred thousand acres of the whole one hundred and twenty-three thousand acres claimed by them are of this description.

January 4, 1882.

(Signed) J. L. BRADFORD,
Counsel for Complainants.

(Signed) ROUSE & GRANT,
Counsel for Def't.

Respondent further admits:

1st. That under the contracts between the sur.-gen'l and John Kap, Owen McLeran and George H. Grandjean, nearly all the land in
121 the Wm. Conway claim has, before the filing of the bill in this cause, been surveyed by the United States as public lands, under their system of public-land surveys, and said surveys have been approved by the proper officers of the U. S.

2nd. That the original of the patent plat of the Wm. Conway claim, certified by F. D. Newcomb, the surveyor-general of Louisiana, on the 25th of November, 1844, if it ever existed, has been so mutilated, in the office of the surveyor-general now situated in the city of New Orleans, by the cutting off and removal of the plat from the field notes of survey that no certified copy thereof can be obtained.

3rd. That the United States land office for the southeastern district of Louisiana has always been kept, and is now kept, at New Orleans, and that in the year 1865 the building in which said office was kept was consumed by fire, in consequence of which nearly all the maps, books, records, and papers belonging to said office were destroyed entirely, and those
122 not so entirely destroyed were so affected by fire or water that they constitute an undistinguishable mass of charred rubbish from which nothing certain and definite can be extracted.

New Orleans, La., April 20, 1882.

(Signed) ROUSE & GRANT,
Sol's for Def't.

No. 125. William Conway claims a tract of land, situate in the county of Acadia, at the place called the Houmas, on the left bank of the Mississippi, containing twenty-two and half arpents in front, with an opening towards the rear of sixty degrees forty-five minutes; the upper line running north, nine degrees fifteen minutes east, three hundred and fifty-one arpents, and on the lower line directed north, seventy degrees east, and measuring four hundred and fifty-five arpents; bounded on the upper side by Daniel Clark's land, and on the lower by land of Simon Laveau.

It appearing to the board, from a patent or complete title exhibited, that seventeen arpents of front were, together with a greater quan-
123 tity, granted by the Spanish *garnish*ment to Maurice Conway, 21st June, 1777; and it appearing that the five and a half arpents of front remaining of the land aforesaid were purchased by Pierre Part, at the public sale of the estate of the late Joachine Mire, alias Belony, on the 7th day of December, 1788; and it further appearing to the board from the several instruments of conveyance offered in testimony that the two tracts of land aforesaid have been conveyed to the present claimant, the board do hereby confirm his claim aforesaid.

No 127. Daniel Clarke claims a tract of land situate in the county of Acadia, at a place called the Houmas, containing ten acres in front, on the left bank of the Mississippi, and running back to the river Amite, bounded on the upper side by lands of Donaldson & Scott and on the lower by those of W. Conway.

It appears to the board from a patent, or complete title, exhibited, that said land, together with a greater quantity, was granted by the
124 Spanish Government to one Maurice Conway on the 21st June, 1777; and it appearing from divers deeds of conveyance, also exhibited, that the land now claimed by the present claimant has been legally conveyed to him, the board do therefore confirm him in his said claim.

It is admitted that the preceding page and this page contain true copies of the decisions of the old board of commissioners for the eastern district of the territory of Orleans, Nos. 125 and 127, on the claims of William Conway and Daniel Clark, respectively, as the same appear in print on page 287 of the American State Papers, public lands, vol. 2, edition of Duff Green.

April 20, 1882.

(Signed) ROUSE & GRANT,
For Def't.

Admissions of counsel of 24th April, 1882.—Filed May 1st, 1882.

To the governor-general:

125 I, Maurice Conway, an inhabitant of this vicinity, with due respect, do represent to your excellency: That being about to settle myself up the country, on the lands which Alexander Latil and I purchased, with your approbation, of the Houmas Indians, and which are totally destitute of fences, and is cleared for upwards of one league in depth in such a manner that the cypress trees may be about one league and a half from the river without my having any right to them, your excellency having granted to us only the depth of forty arpents, with which shortness of depth I cannot have access to the cypress trees so necessary for the construction of my fences and other utilities of a plantation; therefore, I humbly pray your excellency to take the circumstances into consideration and to grant me all the depth which may be vacant behind or at the end of the aforesaid forty arpents of depth, whereof I am at present the sole owner, by virtue of a deed of conveyance passed before Andrew
126 Almonester, notary public, on the 4th day of January last, of the moiety belonging to Mr. Latil aforesaid.

I also pray your excellency to appoint Louis Andry to put me in possession of the aforesaid front and depth by fixing the needful boundaries and furnishing me with due copies of the whole transaction for my use and guide.

And in duty bound I shall ever pray.

MAURICE CONWAY.

NEW ORLEANS, *September* 27, 1776.

Louis Andry, second adjutant of this place, is hereby directed to go to the land alluded to in the within memorial, and to give petitioner possession of that which may be vacant after the forty arpents in depth, of which he is possession, following the same directions, provided it be vacant, and that no injury is thereby done to any of the adjoining inhabitants; to which effect he shall establish his boundaries and limits, and of the
127 whole proceedings he shall make a proces verbal, of which he will make a return to us, signed by himself and the parties, in order to issue the complete title in due form to the claimant.

ONZAGA.

Louis Andry, captain of infantry and second adjutant, mayor of the city of New Orleans, duly commissioned and authorized by his excellency the governor-general of this province of Louisiana for the purpose mentioned in the above petition and decree, do certify that I have transferred myself on the 1st day of October, 1776, to the land referred to in the above documents, which land is situated in the district of the parish of the Ascension or La Fourche, on the left bank of the Mississippi, about twenty-two leagues above the said capitol, being accompanied by the petitioner; Maurice Conway, and the commandant of the said district, Louis Judice, whom I requested (as being well versed in the language of the Houmas Indians) to send for their chief, named Calabe, seller of
128 the land in question, in order that he might point out to me the boundaries which are to limit the same on both upper and lower sides, which being done, and the said chief present, he answered to me,

through the assistance of the interpreter aforesaid, that the land sold by him, and formerly occupied by the Indians, extended from the lower line of Francis Duhon, on the upper side, to that of Michael Chiasson, on the lower (although these names do not correspond now with those which appear in the instrument of sale, because, since that time, the said adjoining lands have passed through the hands of several owners), and which intermediary land I then measured, drawing to this effect through the woods the necessary lines to ascertain its length (which lines are described in the figurative plat of my operations, which I delivered to the party), and found that it contains ninety-six arpents in front on the river, opening one hundred and twenty degrees toward its rear, owing to its
situation in the bottom of the bend, the upper line, adjoining
129 lands of Francis Duhon, being directed north fifty degrees west,
and the lower, adjoining those of Michael Chiasson, running north seventy degrees east.

The measurement of the said front being concluded, I proceeded to put the petitioner in possession of the depth which, by the aforesaid decree, has been granted to him. To this end, having transferred myself to the upper line, which joins Francis Duhon aforesaid, I examined in his presence the stakes which had been planted by me on the 22d December, 1773, which stakes still exist in the same situation, distance, and direction, both of mulberry tree, the first measuring five feet, &c., planted at thirty-seven toises and two feet from the present margin of the river, and the second of 6 feet, &c., planted at one arpent, or 30 toises, further back towards the rear.

Afterwards I proceeded on the same line and on the same course, viz,
north fifty degrees west, until the forty arpents in depth, opening
130 for that purpose a road through the woods, at which point I caused
to be planted a stake of cypress of six feet in length, &c. And at two arpents further still, that is to say, at forty-two arpents from the river, I planted another stake similar in all to the last above described.

This line being concluded, I went to the lower one, adjoining lands of Michael Chiasson, whom I also sent for, and after having measured the seven arpents which, by decree of the 27th September, of this same year, were granted to him by the same governor aforesaid, I caused to be planted on it two stakes of mulberry tree, the first measuring four feet, &c., at twenty toises from the present margin of the river, and the second at twenty toices further back, after which I went on through the woods, and in the aforesaid direction of north seventy degrees east, on the same line, until the forty arpents in depth, at which point I caused to be planted a cypress stake six feet long, &c., and at two arpents further from the river
I caused another stake to be planted, that is, at 42 arpents from the
131 river, of the same size as the precedent, in order to keep the course.

And for the end that all the above stated may be proven I give the present certificate, signed by me, together with the party, Maurice Conway, and the commandant aforesaid, and interpreter in this case, the chief of the Indians having declared, as well as the two adjoining neighbors aforesaid, that they did not know how to sign, which I do attest in the above said court and district the day, month, and year above written.

LOUIS ANDRY.
MAURICE CONWAY.
LOUIS JUDICE.

Don Bernard de Galvez, colonel of the battalion of infantry of Louisiana, governor, intendant, and inspector pro tem. of the troops thereof, &c., having seen the proceedings of the second adjutant of this town, Captain Louis Andry, relative to the possession by him given to Maurice Conway, pursuant to the above decree issued by my predecessor, of all the
132 vacant land lying behind and on the rear of the first forty arpents which he possesses, by ninety-six arpents in front on the river, following the same direction of these, and finding them to be conformable to the rules of survey and agreeable to the concessions of the adjoining inhabitants, without causing to these last any harm or injury whatsoever, nor having by them been claimed, but, on the contrary, consented to it, as it appears by their assistance to the said operations:

Approving of the same, as we do by these presents approve, using of the power to us conferred by the King, we hereby do grant, in his royal name, to the said Maurice Conway the aforesaid land behind or at the end of the forty arpents which contain his plantation, situated in the district of La Fourche, by ninety-six in front on the river, following the same direction which those run, in order that, it being his property, he may share and dispose of the same, ruling himself upon the aforesaid pro-
133 ceedings, and observing the conditions prescribed in the ordinance relative to this subject.

Given under our hand and seal, at the city of New Orleans, and countersigned by our secretary, this 21st day of June, 1777.

BERNARDO DE GALVEZ.

By order of his excellency.

JOSEPH FOUCHER.

It is agreed, for the purposes of this suit, that the foregoing eight pages contain true and correct translations into English of the Spanish petition of Maurice Conway, of 27th September, 1776, addressed to the Governor-General Unzaga; the Spanish order of survey of September 27th, 1776, addressed by said Governor-General Unzaga to Louis Andry; the Spanish proces verbal or return of survey by said Andry of October 1st, 1776, and the Spanish patent of Galvez issued, on the 21st June, 1777, to Maurice Conway; the same being correct copies taken from the translations of said instruments appearing in print in vol. 2 of "White's New
134 Recopilacion," pp. 411 to 414; and also appearing in print in the appendix to "Laws, &c., Relating to the Public Lands," pp. 954 to 956, known as "Clark's Land Laws."

(Signed) J. L. BRADFORD,
Att'y for Complainants.
ROUSE & GRANT,
For Defendant.

Motion & order substituting J. G. Richardson as defendant in this cause.—Filed May 1st, 1882.

U. S. circuit court, east. dist. of La.

ADFRED SLIDELL ET ALS.
vs.
LEON FRÉMAUX, REGISTER. } No. 9684.

On motion of Rouse & Grant, solicitors for defendants, the complainant assenting thereto,

It is ordered that J. G. Richardson, register of the State land office, appointed vice Léon Frémaux, recently resigned, be substituted in this case as defendant, and that the cause proceed against him accordingly.

List of evidence offered by complainants.—Filed May 1st, 1882.

135 U. S. circuit court, &c.

ALFRED SLIDELL ET ALS.
vs.
LÉON FRÉMAUX, REGISTER, &C. } No. 9684.

List of evidence offered by complainants on the final hearing in this cause.

No. 1. Admissions of counsel, signed January 4, 1882, and April 20, 1882.

No. 2. Admissions of counsel of 24th April, 1882; that document to which they are appended contains true translations into English of—

1°. Petition of Maurice Conway, of 27 Sept., 1776.

2°. Order of survey by Unzaga, of 27 Sept., 1776.

3°. Proces verbal of survey by Andry, of 1 Oct., 1776.

4°. Grant by Galvez to M. Conway, of 21 June, 1777.

No. 3. Document certified by the Commissioner of General Land Office, 25 February 1882, and containing copies of—

1°. Letter of register at New Orleans, La., to Commissioner G. L. O., of 15 Nov., 1858.

2°. Patent certificate issued Nov. 15, 1858, on Wm. Conway claim by register at New Orleans, La.

136 3°. Patent plat on Wm. Conway claim, of 13th Nov., 1858.

4°. Application of John Slidell, of 17th November, 1858, for patent on claim of Wm. claim.

No. 4. List of State pre-emptions and declaratory statements in the Wm. Conway claim, certified by register of State lands 29 Dec'r, 1881.

No. 5. Photolithographic map of Wm. Conway claim, with agreement of counsel superadded.

No. 5½. Copy of decisions of board of commissioners on claims of Wm. Conway, Daniel Clark, and Donaldson & Scott, certified by sur. gen'l La. May 2, 1882.

The following evidence filed in the suit of Alfred Slidell et als. vs. Thomas J. Emler et al. No. 9828. U. S. circuit court, 5th circuit and eastern district of Louisiana, to wit:

1st. The following documents certified as true copies by the Comm'r of the G. L. O., 31 March, 1882, viz:

137 1°. Letter from Commissioner G. L. O. to the surveyor-general of La., Oct. 24, 1844, printed in Senate document 45, 28th Cong., 2nd sess., p. 137.

2°. Letter from the Commissioner of the G. L. O. to the Secretary of the Treasury of June 24, 1845.

3°. Lists of swamp land selections in T. 8 & 9 S., R. 4 E., approved by the Secretary of the Interior June 10, 1881.

4°. Letter from the Commissioner of the G. L. O. to the register at New Orleans, La., of 24 Oct., 1844, printed in Senate Doc. 45, &c., p. 138.

5°. Letter from the Secretary of the Interior to the Commissioner of the G. L. O. of May 4, 1878.

6°. Letter from the Secretary of the Interior to the Commissioner of the G. L. O. of May 3, 1881.

7°. Letter from the Secretary of the Interior to the Commissioner of the G. L. O. of May 9, 1878.

8°. Letter from the Secretary of the Interior to the Commissioner of the G. L. O. of June 21, 1879.

9°. Letter from the Commissioner of the G. L. O. to the Secretary of the Interior of January 11, 1859.

138 10°. Letter from the Secretary of the Interior to the Commissioner of the G. L. O. of Dec'r 10, 1860.

2nd. The following copies of documents certified as such by the Commissioner of the General Land Office on March 31, 1882, viz:

1°. Letter from Charles Hopkins, Solicitor of the General Land Office, to the Commissioner of the G. L. O. of the 30' Sept., 1841, being his decision or opinion on the Houmas grant, printed in Senate Doc. 45, &c., p. 85 to 89.

2°. Letter from Commissioner of the G. L. O. to the Secretary of the Treasury of Feb'ry 14, 1842, printed in Senate Doc. 45, &c., p. 89 to 91.

3°. Letter from Acting Secretary of the Treasury to the Commissioner of the G. L. O. of Aug. 2, 1842, printed in Senate Doc. 45, &c., p. 94.

4°. Letter from the Commissioner of the G. L. O. to the Secretary of the Treasury of Aug. 9, 1842, giving history of the facts in the Houmas grant, printed in Senate Doc. 45, &c., p. 94 to 99.

139 5°. Letter from the Commissioner of the G. L. O. to the Attorney-General of Aug. 16, 1842, printed in Senate Doc. 45, &c., p. 101.

6°. Letter from the Commissioner of the G. L. O. to the Hon. Wm. R. King, of the U. S. Senate, of 1st March, 1844, printed in Senate Doc. 45, &c., p. 114 & 115.

7°. Patent issued on claim of Donaldson & Scott, Aug. 22, 1844, printed in Senate Doc. 45, &c., pp. 131 & 132.

8°. Patent issued on claim of Daniel Clark, Aug. 22, 1844.

3rd. The following copies of documents, certified as such by the Commissioner of the General Land Office on 31st March, 1882, viz:

1°. Letter from the Commissioner of the General Land Office to the surveyor-general of Mississippi of Feb'y 17, 1829, printed in Senate Doc. 45, &c., p. 26 & 27.

2°. Letter from the Commissioner of the G. L. O. to Hon. R. C. Nicholas, U. S. Senate, of June 17, 1836, printed in Senate Doc. 45, &c., p. 28.

3d. Letter from the Commissioner of the G. L. O. to the register at New Orleans, La., of June 17, 1836, printed in Senate Doc. 45, &c., p. 28.

140 4°. Letter from the Commissioner of the G. L. O. to the Secretary of the Treasury of April 3d, 1839, printed in Senate Doc. 45, &c., p. 49.

5°. Letter from the Secretary of the Treasury to the Commissioner of the G. L. O. of May 16, 1839, printed in Senate Doc. 45, &c., p. 49.

6°. Letter from the Attorney-General to the Secretary of the Treasury of May 16, 1839, printed in Senate Doc. 45, &c., p. 49.

7°. Letter from the Commissioner of the G. L. O. to the Secretary of the Treasury of Oct. 3d, 1840, printed in Senate Doc. 45, &c., p. 53.

8°. Letter from the register at New Orleans, La., to the Commissioner of the G. L. O. of Feb'y 13, 1841, printed in Senate Doc. 45, &c., p. 54 & 55.

9°. Letter from the Commissioner of the G. L. O. to the register at New Orleans, La., June 30, 1841, printed in Senate Doc. 45, &c., p. 55.

10°. Letter from Isaac T. Preston to the Secretary of the Treasury of January 1, 1841, printed in Senate Doc. 45, &c., p. 89.

4th. Document certified by F. A. Woolfley, clerk U. S. circuit court, &c., February 15, 1882, and containing copies of the following, viz:

141 1°. Plat of claim of Wm. Conway, certified by B. Lafon, February 20, 1806, in French, printed in Senate Doc. 45, &c., between pp. 6 & 7.

2°. Lafron's proces verbal of survey of Feb'ry 20, 1806, in French; printed in Senate Doc. 45, &c., pp. 6 & 7.

3°. Petition of Maurice Conway to Unzaga of Sept. 9, 1776, in French; printed in Senate Doc. 45, &c., pp. 7 & 8.

4°. Order of survey issued by Unzaga of September 27, 1776, in Spanish; printed in Senate Doc. 45, &c., p. 8.

5°. Proces verbal of survey by Don Louis Andry, of Oct. 1, 1776, in Spanish; printed in Senate Doc. 45, &c., p. 8 & 9.

6°. Patent issued by Galvez on 21 June, 1777, in Spanish; printed in Senate Doc. 45, &c., p. 9 & 10.

7°. Deed of conveyance from Maurice Conway to Wm. Conway of 27 October, 1786, in Spanish; printed in Senate Doc. 45, &c., p. 10.

8°. Deed of exchange between Peter Part and Wm. Conway of March 27, 1791, in French; printed in Senate Doc. 45, &c., p. 11.

9°. Decision of the old board of commissioners No. 125 on the claim of Wm. Conway; printed in Senate Doc. 45, &c., p. 5.

142 10°. Certificate of the register at New Orleans, La., of Sept. 16, 1841; printed in Senate Doc. 45, &c., p. 12.

5th. Letter from the Secretary of the Treasury to the Commissioner of the G. L. O. of August 12, 1844, being final decision in favor of the Houmas grant; printed in Senate Doc. 45, &c., pp. 126 to 131.

6th. Original letter from the Commissioner of the G. L. O. to J. L. Bradford, of February 25, 1882, showing what documents he could not furnish copies of.

7th. Copy of letter from the Commissioner of the G. L. O. to the surveyor-general of La., of August 17, 1844; printed in Senate Doc. 45, &c., p. 137.

8th. Copy of letter from the Commissioner of the G. L. O. to the register at New Orleans, La., of July 9th, 1878, refusing to reinstate entry of John Sides.

9th. Copy of letter from J. L. Bradford to the Commissioner of

143 the G. L. O. of March 26th, 1882, apply' for copies of certain documents to be used as evidence in the Houmas suits, &c.

10th. Original letter from the Commissioner of the G. L. O. to J. L Bradford, of April 4th, 1882, transmitting evidence in the Houmas grant.

11th. Copy of letter from the Commissioner of the G. L. O. to the register at New Orleans, La., of Oct. 31, 1878, saying Secretary of the Interior had affirmed his decision of July 9th, 1879, in John Sides' case.

12th. Copy of the notice of claim by Wm. Conway filed before the board of commissioners in 1806.

13th. Translation into English of Lafon's proces verbal of survey of February 20, 1806, sworn to by Mrs. Eliza Dixon.

14th. Copy of the approved list of swamp-land selections in T. 8 & 9 S., R. 4 E., certified by register State land office March 8, 1882.

15th. Abstract of State entries in T. 8 & 9 S., R. 6 E., certified by register State land office Dec. 29, 1881.

144 16th. Abstract of State entries in T. 8 S., R. 4 E., certified by State register of lands Dec'r 23, 1881.

17th. Abstract of State sales in T. 9 S., R. 4 E., certified by register of State lands Dec'r 29th, 1881.

18th. Original list of swamp-land selections in T. 8 S., R. 4 E., dated August 18th, 1879.

19th. Original list of swamp-land selections in T. 9 S., R. 4 E., dated May 1, 1879.

20th. Translation into English of deed of exchange between Maurice Conway and Pierre Part, of March 27, 1791, sworn to by Mrs. Eliza Dixon, on April —, 1882.

21st. Document sworn to by W. H. Wright, April 20th, 1882, as containing true copies of—

1°. Certificate of register at New Orleans, La., of Jan'y 12th, 1842; printed in Senate Doc. 45, &c., p. 89.

2°. Letter from the Attorney-General to the Secretary of the
145 Treasury of Sept. 2, 1842; printed in Senate Doc. 45, &c., pp. 104 & 105.

3°. Letter from the Secretary of the Treasury to the Commissioner of the G. L. O., of Oct. 31, 1840; printed in Senate Doc. 45, &c., p. 54.

4°. Patent certificate issued on the claim of Donaldson & Scott by the register at New Orleans, La., Jan'y 30, 1843; printed in Senate Doc. 45, &c., p. 125.

5°. Patent certificate issued on the claim of Daniel Clark by the register at New Orleans, La., Jan'y 30, 1843; printed in Senate Doc. 45, &c., p. 125.

6°. Letter from the Secretary of the Treasury to S. D. King of Nov. 15, 1843; printed in Senate Doc. 45, &c., p. 114.

7°. Application of Isaac T. Preston, of Sept. 23, 1844, for patent on the Wm. Conway claim; printed in Senate Doc. 45, &c., p. 135.

8°. Application of W. C. Johnson, of Oct. 19th, 1844, for patent on the Wm. Conway claim; printed in Senate Doc. 45, &c., p. 134.

9°. Letter from the register at New Orleans, La., to the Commissioner of the G. L. O., of Dec. 7, 1844; printed in Senate Doc. 45, &c., p. 25.

10°. Patent certificate issued by the register at New Orleans, La.,

146 Dec. 7, 1844, on the claim of Wm. Conway; printed in Senate Doc. 45, &c., p. 26.

22d. Copy of letter from the Commissioner of the G. L. O. to the surveyor-general at New Orleans, La., of May 4, 1878.

23d. Copy of letter from the Commissioner of the G. L. O. to the surveyor-general of La., of July 8, 1879.

24th. Copy of letter from the Commissioner of the G. L. O. to the surveyor-general of La., of June 22, 1877, and being his decision on the Wm. Conway claim.

25th. Letter from the surveyor-general of the U. S. for Louisiana to J. L. Bradford, of April —, 1882.

26th. Letter from the surveyor-general of the U. S. for Louisiana to J. L. Bradford, of April , 1882.

27th. Document certified by the Secretary of the Treasury, April 21st, 1882, as containing true copies of—

1°. Letter from Secretary of Treasury to the Commissioner of
147 G. L. O., of 31' Oct., 1840.

2°. Letter from Secretary of Treasury to Samuel D. King, of 15' Nov., 1843.

3°. Secretary of the Treasury to Commissioner G. L. O., of 12' August, 1844.

28th. Letter from Acting Secretary of Treasury to J. L. Bradford, of April 21, 1882.

29th. Translation into English of the Spanish deed from Maurice Conway to Wm. Conway, of 27th October, 1786; sworn to by Nunn, April, —, 1882.

The admissions of counsel, signed Jan'y 4th, 1882, and April 20th, 1882, filed May 1st, 1882, mentioned in the foregoing note of evidence as No. 1, are transcribed at p. *p.* 115 of this transcript.

The admissions of counsel, signed April 24th, 1882, and filed and offered in evidence by the complainants' May 1st, 1882, with the documents thereto annexed, more fully described in the foregoing note of evi-
148 dence and marked No. 2, have already been transcribed at pages 124 of this transcript.

The document certified by the Comm'r of the General Land Office, February 25th, 1882, filed and offered in evidence by complainants, May 1st, 1882, and marked No. 3 in the foregoing note of evidence, has already been transcribed at pp. 107, 108, 109, 110, 111, of this transcript.

List of State pre-emptions, &c., filed and offered in evidence by complainants, May 1st, 1882, and designated as No. 4 in the foregoing note of evidence, has already been transcribed at pages 113 & 114 of this transcript.

Photographic map of the Wm. Conway claim, filed and offered in evidence by complainants, May 1st, 1882, and designated as No. 5 in the foregoing note of evidence, will be found at page 112 of this transcript.

Certified copies of documents by the Commissioner of the General

149 Land Office, March 31st, 1882, viz: 1°. Letter from Comm'r G. L. O. to sur. gen'l of La., of Oct. 24, 1844. 2°. Letter from Comm'r G. L. O. to Sec'y of Treasury, of June 24th, 1845. 3°. Lists of swamp-land selections in T. 8 & 9 S., R. 4 E. 4°. Letter from Comm'r G. L. O. to register at N. O., La., of Oct. 24, 1844. 5°. Letter from Sec'y of the Interior to Comm'r G. L. O., of May 4, 1878. 6°. Letter from Sec'y of the Interior to Comm'r G. L. O., of May 3d, 1881. 7°. Letter from the Secretary of the Interior to the Comm'r of the G. L. O., of May 9, 1878. 8°. Letter from the Secretary of the Interior to Comm'r G. L. O., of June 21, 1879. 9°. Letter from Comm'r G. L. O. to Sec'y of Interior, of January 11, 1859. 10°. Letter from Sec'y of Interior to Comm'r G. L. O., of Dec. 10, 1860. Filed April 8th, 1882, in the case of Alfred Slidell et als. vs. Thomas J. Emler et als., No. 9828 of the docket of this court. Offered in evidence by complainants May 1st, 1882, and marked 1st.

D

DEPARTMENT OF THE INTERIOR,
150 GENERAL LAND OFFICE,
Washington, D. C., March 31, 1882.

I, N. C. McFarland, Commissioner of the General Land Office, do hereby certify that the annexed copies of papers relative to the Houmas grant, in the State of Louisiana, are true and literal exemplifications of the originals as they now appear upon the files or of record in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] (Signed) N. C. McFARLAND,
Commissioner of General Land Office.

GENERAL LAND OFFICE,
October 24th, 1844.

F. D. NEWCOMB, Esq.,
Surveyor-General, Baton Rouge, Louisiana:

SIR: Herewith I enclose for your information and government a copy of the decision of the Secretary of the Treasury, dated the 12th August last, in the Houmas case.

Patents have issued under that decision for the sections desig-
151 nated in the patent certificates of the register at New Orleans, copies herewith, for the claim of Donaldson and Scott, and that of Daniel Clark, being the sections designated on the plats of said claim dated 6th July, 1841.

The copy of the decision aforesaid is sent to you, to the end that you may furnish the register at New Orleans with a particular plat of the Conway portion of the claim in strict accordance with that decision.

At the same time that you send the particular plat you will please transmit to this office a connected plat, indicating the said claim in connexion with the contiguous surveys, and exhibiting any interference therewith.

Herewith I send copies of two plats of the Conway part of the claim,

which plats were received at this office with a letter of the 23d ult'o, from Isaac T. Preston, esq.

Very respectfully, your ob'd't servant,

THEO. H. BLAKE,
Commissioner.

152

GENERAL LAND OFFICE,
June 24th, 1845.

Hon. R. J. WALKER,
Secretary of the Treasury:

SIR: Herewith I have the honor to lay before you a communication of the 12th ult'o, with a printed document from Isaac T. Preston, esq., and to return the letter to you of the 14th ult'o, from the Hon. R. C. Nicholas. These refer to the William Conway part of the Houmas grant, for which a patent is desired.

On examination I find that the Houmas is a large claim on the left bank of the Mississippi, about 70 miles above New Orleans, embracing within the claimed limits upwards of 188,000 acres.

It had its origin in proceedings under and by the Spanish provincial authorities of Louisiana when the Spanish monarch was the sovereign of e country.

Louisiana had been ceded to Spain by a secret convention signed 3d Nov'r, 1762, between the courts of Versailles and Madrid, an order given 21st April, 1764, by the King of France for its delivery, the ad-
153 ministration remaining, however, in the hands of the French until 1768, when it passed to the Spaniards and remained with them until the secret treaty of cession between France and Spain of the 1st Oct., 1800, followed by the royal order for delivery given at Barcelona, 15th Oct., 1802, and finally by the cession of Louisiana to the United States by the treaty of the 30th April, 1803, and actual delivery on the 20th Dec'r, 1803.

During the administration of the Spanish governor-general, Unzaga y Amezaga, Maurice Conway and one Latil purchased, on the 5th Oct., 1774, of an Indian chief, Calabe, representing the Bayagould and Houmas Indians, upwards of half a league front on the Mississippi River, with a depth of 40 arpens.

Governor Unzaga, on the 1st Nov., 1774, executed a grant for it to the purchasers. On the 18th October, 1776, Conway purchased of the Messrs. Landry an adjoining tract of 6×40 on the upper side. On the 9th Sept., 1776, Maurice Conway, in his own right and in that of Latil, memo-
154 rialized the same governor, and for the reasons stated petitioned for a grant of all the vacant depth in the rear of 40 arpens. On the 27th Sept'r, 1776, the governor directed Adjutant Andry to go to the land alluded to in the memorial to give the petitioner possession of what "may be vacant after the 40 arpens in depth, of which he is in possession, following the same directions," no injury to be done to any adjoining inhabitants, to establish limits, and make a return. On the 1st October, 1776, Andry made a return, representing that he had gone on the land with the petitioner and the commandant, Judice; that the chief, Calabe, was sent for, being "the seller of the land in question, in order that he might point out the boundaries which are to limit the same on both upper and lower

sides;" that the chief designated the land sold by him as extending from Dulion, on the upper side, to Chiasson, on the lower; that the "intermediary land" was measured and found to contain 96 arpens in
155 front, on the river, opening 120° towards its rear, owing to its situation at the bottom of the bend, upper line running N. 50° W., the lower N. 70° E. After the measurement of the front, Andry "proceeded to put the petitioner in possession of the depth which by the aforesaid decree has been granted" to him. He proceeds on the upper line to the 40 arpens in depth, causes a stake to be planted there, and another at 2 arpens further; that is to say, 42 arpens from the river. He did the same in the lower line.

Andry's return is followed by a patent dated 21st June, 1777, from the Spanish Governor-General Bernardo de Galvez, which refers to the proceedings of Andry "relative to the possessions by him given to Maurice Conway, pursuant to Unzaga's decree," of all the vacant land lying behind on the rear of the first forty arpens which he possesses, by ninety-six arpens in front on the river, following the same directions as
156 these, &c, and then grants in the royal name to Maurice Conway "the aforesaid land, behind or at the end of the forty arpens, which contains his plantation, situated in the district of La Fourche, by ninety-six in front on the river, following the same direction which those run," &c. The application of Conway—order of Unzaga—return of Andry, and patent of Galvez are in the appendix to Clarke's Comp. L. L., p's 954, 955, 956, and also in pages 55 to 58, inclusive, in the doc. enclosed in Mr. Preston's letter herewith. Here, then, is the basis of what is known as the Houmas claim, a diagram of which may be found at page 132 of Senate Doc. 45, herewith, 2nd Sess*t*., 28' Congress, containing, under resolutions of the Senate, a full report in January, 1845, from this office, with various arguments, &c., on the subject.

After the cession of Louisiana to the United States, this government took measures for the adjustment of private claims in that territory, and accordingly an act was passed 2nd March, 1805, Comp. L. L., page 518.

157 The 4th sec'n of it authorized claimants under certain legal French or Spanish grants, &c., to deliver within a limited time to the register or recorder a notice in writing stating the nature and extent of their claims, with a plat of the tract or tracts claimed, and provided that where lands are claimed by virtue of a complete French or Spanish grant, as aforesaid, it shall not be necessary to have any other evidence of the claim recorded except the original grant or patent, together with the warrant or order of survey and the plat. The 5th sect. provided for the appointment of a board of commissioners, gave them power to decide in a summary way according to justice and equity on all claims filed in conformity with the provisions of this act, &c., decisions "to be laid before Congress in the manner thereinafter directed, and be subject to their determination thereon," required two transcripts to be prepared "of all the decisions made by the commissioners in favor of the claimants
158 to land," one to go to the surveyor-general, the other to the Secretary of the Treasury; made it the duty of the commissioners to make to the Secretary of the Treasury a full report of all the claims filed as directed, which have been rejected;" which reports, together with the

transcript of the decisions of the commissioners in favor of the claimants, were required to be laid by the Secretary of the Treasury before Congress at their next ensuing meeting." By the act of 21st April, 1806, Comp. L. L., p. 532, the time for filing was extended, &c., and on the 3d March, 1807, another act, L. L., p. 548, was passed, the 4th sec'n of which gave the commissioners full power finally to decide as against the U. States on claims not exceeding a league square (7,056 arpens); the 5th sect. again extended the time for filing; the 6th sect. required the commissioners to transmit to the Secretary of the Treasury and to the s.-gen'l "transcripts of the final decisions made in favor of claimants by virtue of this act," to "deliver to the party a certificate" (known as a confirmation cert.)
159 "stating the circumstances of the case, and that he is entitled to a patent for the tract of land therein designated," certificate to be filed with the proper register or recorder within 12 months after date, the law declaring that "the register or recorder shall thereupon" (a plat of the tract of land therein designated being previously filed, &c.), "issue a certificate" (patent certificate), "which shall entitle the party to a patent."

The 7th section provides for the survey of the tracts thus granted, and the return of general and particular plats.

The 8th section required the commissioners to make to the Sec'y of the Treasury a report of their opinion on all claims in their respective districts "which they shall not have finally confirmed by the fourth section of this act." Claims to be arrange' in 3 classes: 1st, which in their opinion ought to be confirmed in conformity with the provisions of the several acts, &c.; 2nd, claims which, though not embraced by those provisions, ought
160 to be confirmed in conformity to the laws, usages, &c., of the Spanish Gov't; 3, rejected claims.

Pursuant to the said act of 2d March, 1805, the Houmas claim, in three parts, was presented for adjudication and entered in the report of the old board for SE. dist. La., viz, No. 125, in favor of William Conway, for a tract of 22½ arpens front, with an opening, &c.; No. 127, in favor of Daniel Clark, for a tract 10 acres in front and running back to the Amite, bounded, &c.; No. 133, in favor of Wm. Donaldson and John W. Scott, for 29 acres in front, with depth to the Amite, bounded, &c.

In each of these cases the board do confirm the claim, Robertson, a member of the board, after the decisions were made, dissenting. A transcript from the record of the old board in these cases is on pages 5 and 6 of Senate Doc. herewith, in which Doc. may also be found a plat of survey in the case of No. 125, certif'd in Feb'y, 1806, by Lafon, dep'd by Isaac Brigs, s.-general; No. 127, certif'd in Sept., 1805, by Lafon, as comm'd
161 by Gov'r Claiborne; No. 133, certified by same in Dec'r, 1804.

Thus, then, under the laws of Congress, the Houmas claim was laid before the old board for adjudication, and reported on by them.

It was brought by s.-gen'l's letter of 14 Jan'y, 1829, to the attention of Comm'r Graham, who, on 17 Feb'y, 1829, expressed the opinion that the grant by Galvez in 1777 "is so vague in its terms, both as to boundary and quantity, that it will be indispensably necessary for the ecurts of justice to interfere for the purpose of defining and designating both;" that if the s.-gen'l would assume "a league and a half as the extent" of the Galvez grant to Conway full scope would be given for the court to exer-

cise its discretion. Mr. Graham stated further that "the decision of the commissioners recognizes the Amite as the boundary of some portion of this grant; but the decision can only be considered as recognizing the validity of the grant as a complete title, and not as going to confirm
162 any other lands than those included within the limits of the original grant."

The diagram at page 132 of Senate Doc. 45 herewith exhibits by a yellow shade the limits prescribed by Mr. Graham, leaving a large body of land between that depth and the limits claimed, and indicated by a pink shade.

This diagram shews also that the D. Clark portion, No. 127, is for 20 arpens direct front, though the decision of the old board designates only 10 acres.

The lands situated between Mr. Graham's depth and the depth claimed to the Iberville, Amite, and Lake Maurepas were treated and surveyed as public lands, and sales made therein. In 1836, however, Comm'r Brown ref'd to the law prohibiting the sale of lands embraced in a claim duly filed, and directed them to be withheld from entry, disclaiming, however, the recognition of the claim as confirmed to the extent contended for. In 1843 the case came before the Secretary of the Treasury on an ap-
163 plication for refunding money on acc't of sales of lands situated between Mr. Graham's depth and the depth claimed, and in his letter of the 28th Aug'st, 1843 (p. 112 of Senate Doc. 45) I find Mr. Secretary Spencer held that the act of Congress of the 18th April, 1814, authorizes patent certificates, and "patents to be issued only for claims to tracts not exceeding a league square," which, by the act of March 3d, 1807, the commissioners had power finally to decide, and did so decide, and that of course it has no application to the Houmas claim, which was submitted in pursuance of law to Congress for its final decision; and afterwards that he had "not determined," nor would he "undertake to determine to what extent the Houmas claim has been confirmed;" that "this is for the courts of law or Congress to decide."

In 1844 the case came under review by Mr. Secretary Bibb, who, on the 12th August, 1844, made a decision in which he held that "by the force and effect of the two acts of Congress of 12th April and 18th
164 April, 1814, all the decisions of the commissioners made and reported in favor of the claimants under the acts of 1805 and of 1807, and so laid before the Congress of the United States, as well in respect of claims not exceeding as in respect of claims exceeding the quantity of one league square have been confirmed, and patents are ordered according to the decisions of the commissioners in favor of the claimants for the lands described in the certificates of the commissioners and the surveys corresponding therewith," and that the applications made for patents in No. 127, Daniel Clark, and No. 133, Donaldson & Scott, "are such as ought to be granted according to the terms and provisions of the act of 18th April, 1814." (Senate Doc. 45, p's 126 to 131, inclusive.)

The decision then of Mr. Secretary Bibb is that the said act of 18th April, 1814, entitled "An act concerning certificates of confirmation of claims to land in the State of Louisiana," which Mr. Spencer re-
165 garded as only applicable to cases not exceeding a league square, covers the whole case, and confirms the three parts called the

Houmas to the full extent claimed. For two of these parts, Nos. 127 and 133, containing together upwards of 64,600 acres, patents have issued in accordance with a form prescribed by Mr. Bibb; afterwards, however, and before the return to this office of the patent certificate for the Conway, the 3d, largest, and remaining part, containing upwards of 123,500 acres, the U. S. Senate made a call on the Secretary, which was answered by a report from this office hereinbefore ref'd to of the 6th Jan'y last, and is embraced in said Senate Doc. 45 herewith.

On the 7th Jan'y last, a joint resolution was presented by Hon. C. Johnson, and passed the H. Rep's to prohibit the issuing of grants in the Houmas "until the further order of Congress in relation thereto," was sent to the Senate, and there ref'd to the Committee on the Judiciary. My predecessor, it appears, then held the case in suspense. On the 5th
166 March last, at the close of the session of Congress, there was received at this office a letter herewith of the 3d of that month from W. Cost Johnson, inclosing one from him of same date requesting the President to "direct the Com'r of Public Lands to issue a patent for the Conway portion, No. 125, in conformity with Judge Bibb's decision, as will be seen at p. 45 of the Senate Doc. above referred to." With this letter is a note of the 3d March last from Sec'y Bibb, stating that the three claims "are confirmed, and, therefore, patents ought to issue, if not already issued, conformably to the opinion" by him delivered of the 12th August, 1844. Under this note is an order of the same date from President Tyler, requiring the commissioner to "issue patents in conformity with the above recommendation and opinion of the Secretary of the Treasury," but my predecessor still deferred action in the case. Having thus traced the prominent transactions in the history of this claim, I respectfully submit my views upon certain points:

167 1st. The claim is shown to be based upon a grant dated 21st June, 1777, from the Spanish governor, Bernardo de Galvez. Is that a valid title under treaty, and are the terms of it, with Andry's return of survey, sufficiently definite to embrace the land extending back to the Amite and Lake Maurepas as contended for by claimants?

In the case of the U. S. vs. Arredondo and others, 6th Peters, p. 717, the Supreme Court declare that Congress "have adopted as the basis of all their acts the principle that the law of the province in which the land is situated is the law which gives efficacy to the grant, and by which it is to be tested whether it was property at the time the treaties took effect."

What, then, was the law of the province at the time this grant was made by Galvez, and did that law restrain and circumscribe his power?

In looking to the records of Spanish colonial times we find that O'Reilly, under a commission dated 29th Oct., 1768, succeeded Ulloa, the
168 first Spanish governor of the province; he drew up regulations dated 18th Feb'y, 1770, at New Orleans, for the granting of lands, limiting their front and depth (2d vol. L. L. ap. p. 204), put Unzaga in possession of the political and military gov't, had his regulations and act approved by the King, as shown by the despatch to Unzaga of the 24th Aug., 1770, from the Marquis Grimaldi, by the royal order of 28th January, 1771, and by the report of Feb'y 27, 1772, from the council of the Indies to King. App., p's 530 to 536. Galvez, who executed this grant, was the immediate successor of Unzaga, his commission bearing date 8th May,

1779, but he had previous to that time held the office ad interim, as that commission shews. White's Recep'n, vol. 2, p. 452. O'Reilly's regulations, approved by the King, continued in force until Sept., 1797, when the instructions of Gayosa de Lemos were issued. App., v. 2, p. 206; 8 Peters, p. 456. If the grant in question had to be tested by those regulations, the case would be easy of settlement. But although the Supreme Court in
169 the case of Arredondo (p. 714) recognizes a royal order, emanating from the King as supreme law, yet that court held in the same case, referring to grants which had emanated under all the official forms and sanctions of the local government, that "this is deemed evidence of their having been issued by lawful, proper, and legitimate authority, when unimpeached by proof to the contrary," that the United States submitted to the principle which prevails as to all public grants of lands, "which is that the public acts of public officers purporting to be exercised in an official capacity and by public authority shall not be presumed to be an usurped but a legitimate authority previously given or subsequently ratified, which is equivalent"; in the case of U. S. vs. Clark (8 Peters, p. 451), that "a grant made by a governor, if authorized to grant lands in his province, is prima facie evidence that his power is not exceeded"; as to O'Reilly, p. 455, that the "rules he prescribes for himself do not purport
170 to be limits imposed by a master, but to be marked out by his own discretion and to be alterable at will," and in the case of Delassus vs. U. S., 9 Peters, p. 135, "it is apparent those regulations were intended for the general government of subordinate officers, not to control and limit the power of the person from whose will they emanated." Under the doctrine thus advanced by this high authority we are bound to regard the grant as within the scope of the authority of Galvez and as lawfully executed by him. It is, then, a valid title under treaty; the sovereignty changes, but private property must stand unaffected.

"The people change their allegiance; their relation to their ancient sovereign is dissolved, but their relations to each other and their rights of property remain undisturbed."

But the question remains as to what is the rear extent of that grant. On looking to the survey by Andry, we find that he traced the upper and lower lines from the front on the river to the distance of only
171 42 arpens or ½ a league from that river, putting the petitioner in possession of the rear lands.

In the answer of the Houmas claimants to Mr. Burchard (Senate Doc. 45, p. 68) it is stated as "a matter of history that at the date of the Houmas grant the topography of Louisiana was but little known, and the operations of the surveying department show that the lines of the land on the Mississippi were seldom, if ever, traced beyond eighty arpens;" that "the proces verbal of Andry states that those of the Houmas only extended to forty-two arpens;" and (p. 69) that, "as it has been already stated, there was, ex necessitate, no actually defined rear boundary to the Houmas claim;" and again (ps. 70 & 71), the application of Conway describes very clearly and distinctly what he wants and the object of the requisition. He says that his plantation is entirely deficient of fences, and that the land is cleared out upwards of a league in depth, so that the cypress
172 being at the distance of about a league and a half from the river, the petitioner has no right thereto;" that "the depth of a league,

eighty-four arpents, the maximum stated by Mr. Burchard, would have not sufficed his purposes, because the cypress swamp was, as petitioner declared, forty-two arpents beyond that depth. Neither would his object have been attained by extending his line to the cypress swamp, because that would have been exclusive, and he wanted timber;" that "he asks explicitly for all the land that might be vacant behind or at the end of forty arpens, by which he understood, if his prayer was granted, that the lateral or side lines of his claim should be produced out from the end of forty arpents, until they were stopped by another grant or a navigable water-course, according to the Spanish usages and customs of granting land."

It is then admitted that there was "no actually defined rear boundary to the Houmas," but under the Spanish usages a navigable water-course is claimed as that boundary.

173 Mr. Graham was of opinion that the boundaries of the grant "must be fixed by the courts," and in order to give scope for their discretion limited the survey of the rear line to a league and a half, thereby giving upwards of 18,000 acres to the claim.

Marbois, in his Hist. La., p. 138, after referring to reformations by Gayosa in the granting of lands (Gayosa having been app'd in 1796, the 3d successor of Galvez), states that "these favors had been lavished with so little prudence that individuals had obtained tracts of ten thousand acres."

Looking to the object for which the grant was asked, I feel constrained to say that I cannot decide that the usages of the province authorized such an extension, or that Galvez contemplated a grant for such an extent of territory, but must agree with Commissioner Graham and Secretary Spencer, that the rear boundaries should be determined by the courts or by Congress.

2d. It is contended, however, that the claim which was duly filed
174 before the old board under the act of 1805, confirmed by them, was confirmed by the act of Congress, approved 18th April, 1814, entitled "An act concerning certificates of confirmation of claims to land in the State of Louisiana," and that the Commissioner of the General Land Office is directed by that law to issue a patent for the whole extent of the claim. I have carefully examined that act, and weighed that part of it commencing on page 657, Clarke's Comp. L. L., p. 657, 10th line, with the words, "And on claims which are included in the transcripts of decisions made in favor of claimants and transmitted to the Secretary of the Treasury, the said certificates shall," &c., and after considering the whole act together, I cannot satisfy myself that it has reference to any cases except those in which "confirmation certificates" are authorized to be issued for claims to the extent of a league square, concurring in this point with Secretary Spencer. Senate Doc. 45, page 113.

175 3d. What is required of the executive officers under existing laws in regard to this claim?

It appears from the transcripts presented that this claim, to the full extent contended for, was duly filed before the old board. In the 6th sect. of the act of Congress, approved 3d March, 1811, L. L., p. 590, it is declared "that, till after the final decision of Congress thereon, no tract of land shall," &c., "offered for sale, the claim to which has been in due time and according to law presented to the register of the land office and filed

in his office for the purpose of being investigated by the commissioner appointed for the purpose of ascertaining the rights of persons," &c.

Under this provision of law the land, in my opinion, to the full extent claimed, should have been and should be protected from sale until the final decision of Congress.

By this course the claimants would be left to their original grant on which to rest and defend their rights under the supreme law of the land,
176 and the Executive, in any future proceedings, would be governed by the decision of Congress and of the courts.

Having thus, with great deference to the opinions of others, ventured to express my own, it remains for me to recur to the command to my predecessor, of the late Secretary of the Treasury and the late President, to issue the patent, and, as it now devolves on the Chief Executive either to refuse or comply, I respectfully request the instructions of the supervisory power as to the action this office shall have on the application of Mr. Preston for a patent for the Conway (the remaining unpatented) portion of the Houmas claim.

With great respect, your ob't servant,

JAS. SHIELDS,
Commissioner.

NEW ORLEANS, LA.

Approved June 10, 1881.
Posted in swamp records June 13, 1881.

No. 26. A list of swamp and overflowed lands selected as inuriny to the State of Louisiana, under the provisions of the act of Congress approved March 2d, 1849, in the district of lands subject to sale at New Orleans, Louisiana.

177 SWAMP LANDS.

Southeastern dist., east of Mississippi River.

Parts of sections.	Section.	Township.	Range.	Surveyed area.		Unsurveyed area.		Total area.	
				Acres.	Hd'ths.	Acres.	H'dths.	Acres.	H'dths.
		S.	E.						
All of fr'l sec.	19	8	4	38	60				
" " " "	29	"	"	51					
" " " "	30	"	"	560	03				
" " " "	31	"	"	606	72				
" " " "	32	"	"	279	34				
All of fr'l sec.	5	9	4	490	78				
N.E. ¼	6	"	"	159	87				
N.E. ¼ of S.E. ¼	6	"	"	39	92				
N.E. ¼	8	"	"	159	75				
E. ½ of S.E. ¼	8	"	"	79	62				
E. ½ of N.W. ¼	8	"	"	79	87				
All of fr'l sec.	9	"	"	368	39				
" " " "	10	"	"	407	41				
" " " "	11	"	"	218	37				
" " " "	12	"	"	100	64				
N. ½ of N.W. ¼	13	"	"	79	71				
Lot No. 1	13	"	"	72	35				
" " 2	13	"	"	77	84				
N.E. ¼ of N.E. ¼	14	"	"	40					
W. ½ of N.W. ¼	14	"	"	80					
N.E. ¼	15	"	"	160	10				
W. ½	15	"	"	320	40				
W. ½ of S.E. ¼	15	"	"	80	15				
E. ½ of N.E. ¼	17	"	"	79	66				
N.W. ¼ of N.W. ¼	17	"	"	39	83				
N.W. ¼ of S.W. ¼	17	"	"	39	99				
S.E. ¼	17	"	"	159	97				
N.E. ¼ of N.E. ¼	18			39	68				
W. ½ " N.E. ¼	18			79	36				
W. ½	18			316	96				
N. ½ of S.E. ¼	18			79	12				
								1,535	69
178 S.E. ¼	19	9	4	157	70			1,535	69
N.E. ¼	20	"	"	160	32				
S. ½ of N.W. ¼	20	"	"	80	16				
S. ½	20	"	"	320	76				
S. ½ of N.E. ¼	21	"	"	80					
N.W. ¼	21	"	"	160	11				
S. ½	21	"	"	320	68				
S. ½	22	"	"	321	10				
S.E. ¼ of N.E. ¼	23	"	"	40					
W. ½ " N.E. ¼	23	"	"	80	01				
N.W. ¼	23	"	"	160	06				
S. ½	23	"	"	320	44				
S. ½	24	"	"	320	70				
All of sec	25	"	"	642	20				
" " "	26	"	"	641	80				
N.W. ¼	27	"	"	160	55				
E. ½ of N.W. ¼	27	"	"	80	22				
N.W. ¼ " S.W. ¼	27	"	"	40	11				
E. ½	27	"	"	321					
N. ½	28	"	"	321	08				
N. ½ of S. E. ¼	28	"	"	80	36				
N.E. ¼	29	"	"	160	45				
N.E. ¼ of N.W. ¼	29	"	"	40	11				
N.W. ¼ " N.E. ¼	30	"	"	39	37				
N.E. ¼ " N.W. ¼	30	"	"	39	37				
S. ½	31	"	"	316	88				
S. ½ of S.W. ¼	32	"	"	79	34				
S.E. ¼ " S.E. ¼	34	"	"	40					
E. ½	35	"	"	322	42				
E. ½ of W. ½	35	"	"	160	58				
S.W. ¼ " S.W. ¼	35	"	"	40	11				
All of sec.	36	"	"	647	54				
								10,545	27
Total								11,879	96

179 GENERAL LAND OFFICE, SWAMP LAND DIVISION,
June 8th, 1881.

This certifies that the tracts of land embraced in the foregoing list were duly reported to this office by the U. S. General for Louisiana, from the decision of this office of Nov. 24, 1879, holding for rejection the claim of the State thereto, which appeal was transmitted to the honorable Secretary of the Interior with letter from this office of Feb. 3, 1880, and the decision of this office was reversed May 3, 1881.

On examination of the tract books of this office said tracts are found to be free from conflict by sale or otherwise.

E. KILLPATRICK,
Examining Clerk.

S. L. CRISSEY,
Chief of Swamp Division.

I hereby certify that the foregoing list of lands is not embraced in any claim that has been confirmed or that awaiting confirmation.

L. HARRISON,
180 *P. C. Priv. Land Claims, G. L. O.*

JUNE 9, 1881.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
June 8, 1881.

Respectfully submitted for approval.

C. W. HOLCOMB,
Acting Commissioner.

J. R. M. C.
W. B.

DEPARTMENT OF THE INTERIOR,
10' *June*, 1881.

The foregoing list of swamp selections is hereby approved, subject to any valid legal rights that may exist to any of the tracts therein described.

S. J. KIRKWOOD,
Secretary.

GENERAL LAND OFFICE.
October 24, 1844.

SIR: Herewith I transmit, for your information and government, a copy of the decision, dated 12th of August last, of the Secretary of the Treasury in the Houmas case.

Patents have issued in the case of Donaldson & Scott and Daniel
181 Clark, for the tracts designated in the patent certificates issued by you for said claims. In the Conway case no patent certificate has yet issued. Herewith I send a copy of my letter to the surveyor-general in reference to the return to you of the requisite particular plat in the case.

Very respectfully, your obedient servant,

THO. H. BLAKE,
Commissioner.

REGISTER OF THE LAND OFFICE,
New Orleans, Louisiana.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D. C., May 4, 1878.

SIR: I have considered the questions arising on the application of John Burnside, by W. C. Hill, esq., his attorney, for a patent of a certain tract of land situate in the State of Louisiana, being a part of what is known as the Houmas grant, the title to which it is alleged was confirmed to William Conway by an act of Congress approved June 2d, 1858, on appeal from your decision of June 22, 1877.

182 Upon an examination of the papers filed in the case, I find your decision contains a sufficient statement of the facts connected with this celebrated case, which for more than seventy years has been before the officers of the various branches of this government without a final determination.

You held—

First. That the act of June 21, 1860, repealing the act of June 2, 1858, which confirmed this claim, operated as a bar to the issue of a patent for the claim under said act. I concur with you in this view.

Without discussing the question of the power of Congress to repeal a confirmatory statute, by which a disposal is alleged to have been made of what is claimed to be a portion of the public domain, I am of opinion that a positive and specific enactment of Congress should control and govern this department while the same remains in force and is not pronounced by the courts to be unconstitutional.

183 I am confirmed in my view of the propriety of this course by the action of my predecessor, Hon. Jacob Thompson.

Under date of January 11, 1859, your office submitted for instructions the application of Hon. John Slidell for a patent for the tract in question, under the confirmatory act of June 2, 1858.

Under date of December 10, 1860, Secretary Thompson, without expressing any opinion on the questions involved, returned the papers to your office to be filed therein, thus declining to authorize the issue of a patent.

This course was pursued in view of the passage of the repealing act of June 21, 1860.

Second. That "that portion of the tract of land claimed, fronting the Mississippi River, and bounded on the west by the claim of Daniel Clark, and on the southeast by the claim of Simon Leveau, to the extent of eighty arpents in depth, and no more, from the said river, is covered by a complete Spanish grant, and hence protected by the treaty of April 30,

184 1803, which guaranteed to the inhabitants of the ceded territory the free enjoyment of their liberty, property," &c.

I must dissent from your conclusion on this point, which has been such a fruitful source of discussion for so many years.

On June 26, 1846, the following joint resolution was passed by Congress (9 Statutes, p. 110): "That the Attorney-General of the United States be, and he is hereby, directed to examine the evidences of title in the case of a certain Spanish land claim in the State of Louisiana, lying on the Mississippi, above New Orleans, commonly known as the Houmas claim, and to report his opinion thereon to the President of the United States

and if, in the opinion of the Attorney-General, any patent or patents issued, or which may be issued under such claim, shall have been, or shall be, issued contrary to law, that the President of the United States be, and he is hereby, requested to cause proceedings to be instituted
185 in behalf of the United States, and to have the validity of such patent or patents judicially determined."

In compliance with this resolution the Attorney-General, Hon. Nathan Clifford, after a full consideration of the case, on the 31st December, 1847, rendered an opinion, in which all of the questions in relation to the validity and extent of the original grant now presented were elaborately discussed.

In his opinion he states that "two points of inquiry are obviously presented in the resolution, neither of which can be satisfactorily answered without an accurate knowledge of the facts. The first clause relates to the title of the claimants to the land referred to in the resolution, and requires an opinion as to the evidence in support of it, which presents a distinct issue, involving the validity of the whole claim."

Upon the first point he expressed the following opinion:

186 "In the first place, I am of opinion that the grant by Galvez to Maurice Conway is a perfect and complete grant, duly made and consummated before the cession of Louisiana to the United States, and protected by the treaty of cession, and in the language of the Supreme Court in the case of the United States vs. Wiggin (14 Pet., 350), is intrinsically valid, and needed no sanction from the legislative or judicial departments of this government.

"The great question to be determined, however, is the extent of the lands which were severed from the domains of the crown of Spain by the terms of the grant, or, in other words, the limits and boundaries of the tract secured and guaranteed by the treaty."

After reviewing the facts presented to him upon that question, and upon which no new evidence has been presented to me, he stated, "I am of the opinion that the grant to Maurice Conway is a complete and perfect Spanish grant to the extent of forty-two arpents from the river,
187 and no more; that the said grant does not convey any lands beyond that extent, but that the title to the same is vested in the United States."

This was the opinion of the law officer of the government, rendered in pursuance of the joint resolution above cited on the identical point now presented to this department; and as the status of the case so far as the question of the validity and extent of the original grant is involved is not changed by the presentation of any new statement of facts, after mature deliberation and consideration, I have decided to adopt the same as my guide in the premises, and to determine the question of the extent of the grant in accordance therewith.

If by my action, in being governed by the provision of an act of Congress in a specific case, or in adopting the opinion of the law officer of the government, the claimant alleges that an injustice has been done, a tribunal has been provided by the Constitution and the laws of the
188 country in which he can obtain a speedy remedy.

Your decision on the second point is therefore modified as follows:

"That portion of the tract of land claimed, fronting on the Mississippi River, and bounded on the west by the claim of Daniel Clarke, and on the southeast by the claim of Simon Leveau, to the extent of forty-two arpents in depth, and no more, from the said river, is covered by a complete Spanish grant, and hence protected by the treaty of April 30, 1803, which guarantees to the inhabitants of the ceded territory the free enjoyment of their liberty, property," &c.

Your decision, as thus modified, is affirmed, and the lands hereby excluded from said claim will be treated and considered as public land of the United States, and subject to all the rules governing the survey and disposal of the public domain.

The papers transmitted with your letter of December 8, 1877, are herewith returned.

Very respectfully,

C. SCHURZ, *Secretary.*

COMMISSIONER GENERAL LAND OFFICE.

189 DEPARTMENT OF THE INTERIOR,

Washington, May 3, 1881.

The COMMISSIONER OF THE GENERAL LAND OFFICE:

SIR: I have considered the appeal of the State of Louisiana from your decision of November 24th, 1879, rejecting three lists of swamp land selections, reported by the surveyor-general on the 7th of May, previous, embracing tracts in township 9 south, 2 east, 8 south, 4 east, and 9 south, 4 east, late southeastern, now New Orleans district.

The reason for rejection, as stated by you, is because the lands were within the exterior limits of the claimed Houmas grant at the date of the swamp act of March 2, 1849 (9 Stat., 352), under which the selections were made, and consequently were reserved from the operation of that act within the meaning of the Supreme Court decision in Newhall vs. Sanger, (2 Otto, 761).

To establish the fact of reservation, you cite the provision of section 10 of the act of March 3, 1811 (2 Stat., 662), "that till after the
190 final decision of Congress thereon, no tracts of land shall be offered for sale, the claim to which has been in due time and according to law presented to the register of the land office, and filed in his office for the purpose of being investigated by the commissioner appointed for the purpose of ascertaining the rights of persons claiming lands in the Territory of Orleans."

It appears that the lands in the claimed Houmas grant were embraced in the claim presented to the register, and duly recorded under the act of March 2, 1805 (2 Stat., 324), and that those now selected in township 9 south, 2 east, were patented to Donaldson and Scott August 22, 1844. Those in township 8 and 9 south, 4 east, are in the William Conway tract, so called, outside the limits of the 42 arpents held to have been granted and confirmed to said Conway; and the same are now free from reservation or other claims, so far as they can be so declared by the action of this department.

191 The sole question involved is whether or not there was such a res-

ervation of these tracts as to take them out of the swamp grant of March 2, 1849, to the State of Louisiana (9 Stat., 352).

By my predecessor's decision of May 4th, 1878, it was held that the lands in the Conway tract, outside the forty-two arpents in depth adjudged by the Attorney General's opinion of December 31, 1847, to constitute the entire legal claim of said Conway, were and should "be treated and considered as public land of the United States, and subject to all the rules governing the survey and disposal of the public domain."

On the 9th May, 1878, further disposal of the lands within the old Houmas claim was suspended for three months, to enable the grant claimants, if so disposed, to institute proceedings in the proper courts to obtain a judicial determination of the disputed questions of title. This was
192 done at the especial request of their attorney, upon an intimation from him that such suit would be brought.

In making this suspension it was stated as follows: "It is not intended under these instructions that any entries, if there be such, should be cancelled, or that the status of any claim should be changed; neither is it intended to express any opinion on the question of the validity of any claim to the lands in question."

"June 21, 1879, you were instructed to carry the decision of May 4, 1878, so far as it relates to Conway tract, into effect"; and were also advised that no further action would be taken respecting the Donaldson and Clark tract while the patents should remain in force and uncancelled.

All this action seems to have been predicated upon the theory that a decision had long ago been reached by the proper officers of the government that the grant extended to a depth of forty-two arpents only, and
193 the residue of the claim was actually public land, within the power of disposal by Congress and the Executive, barred only as to the patented tract by the wrongful issue of the said patent. Suit to vacate the patent was duly commenced in court in March, 1849, the final result of which is yet undetermined, so far as I am at present advised.

But if it be held that executive disposal of the land could not be made until the act of June 21, 1860, which denied the confirmation of the private claim, it does not necessarily follow that a grant by Congress in the nature of the swamp acts of 1849 and 1850 could not have any application, by way of conveying title to such swamp lands as might finally be found outside the limits of the confirmed claim.

This proviso was expressly construed by the Supreme Court in Ham vs. State of Missouri (18 Howard, 126), as contemplating a tempo-
194 rary suspension for the purposes of investigation, and no bar to the taking effect of a grant by Congress made previous to final rejection of a private claim, upon such final rejection being made, with relation back to the date of the grant. (See, also, Beecher vs. Wetherby 5 Otto, 517).

The school grant to the State of Missouri, by act of March 6, 1820 (3 Stat., 547), was not more specific than the swamp grants of 1849 and 1850 (9 Stat., 352 and 519). By the first of these the description is of "the whole of those swamp and overflowed lands which may be or are found unfit for cultivation." By the second the description calls for "the whole of those swamp and overflowed lands made thereby unfit for cultivation, which shall remain unsold at the passage of this act." And section 2479

of the Revised Statutes declares that "the whole of the swamp and overflowed lands made unfit thereby for cultivation, and remaining unsold on or after the twenty-eighth day of September, A. D. eighteen hundred and fifty, are granted and belong to the several States, respectively."

195

These lands now selected are found at date of survey corresponding to the description of the grant and unsold by the United States. By previous decisions of the Attorney-General and of the department they have been considered as entitled to be treated as public lands without regard to the alleged right of Conway. The construction of the identical statute relied on by you to defeat the claim of the State has been expressly passed upon by the Supreme Court in the case cited (Ham vs. Missouri supra) to the effect that it interposes no bar to the vesting of title in such a case. This identical question was also considered at an early day and settled by this department in favor of the right of the State, and I am not aware that the practice then established has since been departed from. On the 21st of June, 1856, Mr. Secretary McClelland decided as follows:

196

"The subject-matter of your letter of the 3d of December last has been fully considered, and I can see no just reason for denying the right of the State to the land really swamp and overflowed merely because at the passage of the swamp-land act of 1850 it was set apart as land within the limits of an alleged private claim, and which private claim has been since determined to be invalid and the lands restored to the mass of public lands.

"The spirit and intent of the swamp-land act were to grant to the States referred to therein all the land of the particular character referred to within their respective limits to which the United States had title, and which had not been reserved for some special purpose inconsistent with the idea of any other disposition thereof without special authority.

"In the matter of the reservation, or setting apart certain tracts of land for these alleged private claims, it was merely a withholding them from sale or other deposition by the land officers during the continuance of the reservation with a view of preventing conflicts of interest whilst the investigations were in progress as to the public or private character of the land, and when the former was settled as its status it became, on the return thereof to the mass of public lands, subject to the laws which made a specific grant of all public lands for other purposes, according to the provisions thereof existing at the time of such return." (1 Lester, 555.)

197

The case of Newhall vs. Sanger, cited by you, does not conflict with the foregoing. In that case express declaration had been made by the act of March 3, 1851 (9 Stat., 631), that the lands embraced in private claims in California should be deemed, held, and considered a part of the public domain only upon final rejection of such claim, and the grant to the railroad company expressly excepted such reserved lands from its operation. I do not regard the doctrine in that case as intended to set aside the construction already placed by the court upon the proviso to the 10th section of the act of March 3d, 1811, although based upon legislation somewhat similar in terms.

198

I must conclude, therefore, that the State of Louisiana is not deprived

of the grant of swamp lands by the proviso named, on account of the pendency of an alleged private claim at the date of the granting act, and that the selections in question, so far as they fall within the Conway tract, and not interfered with by any other claim entitled to confirmation or awaiting final action, are valid and should be approved. Those in the patented tract cannot be recognized while the outstanding title remains undisturbed.

Your decision is accordingly reversed, and the papers submitted by your letter of February 3, 1880, are returned.

Very respectfully,

S. J. KIRKWOOD,
Secretary.

199 DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D. C., May 9, 1878.

SIR: I am in receipt of a letter from W. C. Hill, esq., att'y for John Burnside, in relation to my decision of the 4th inst. in the matter of the application for a patent for that portion of the Houmas claim in the State of Louisiana known as the William Conway tract.

The principles of that decision apply equally to the remaining portions of the Houmas claim, known as the Daniel Clark and the Donaldson and Scott tracts.

The lines of the public surveys have been extended over a portion of these lands, and some settlements have been made thereon. Under my decision all of the lands back of the forty-two arpents from the river are held to be public lands, subject to disposal as such.

Mr. Hill states that the claimants of the Houmas grant are about
200 to institute a suit, in the proper courts, for the purpose of obtaining a patent for the entire tract, under the confirmatory act of 1858, and he requests that the lands thus claimed be held from further disposal until the question of title is determined.

In my opinion the case in question is one calling for the exercise of a discretionary power on the part of the executive branch of the government in withholding lands from disposal for a legitimate purpose, viz, that the question of title to the same may be determined by the properly constituted tribunals.

You will therefore instruct the local officers to allow no entries under the pre-emption or homestead laws upon any of the lands within the limits of the Houmas claim for a period of three months, and if a suit shall be instituted within that time, and notice thereof served upon you, you will take such action in the premises as the circumstances require.

201 You will also decline to take any steps towards the transfer of the title of any of said lands to the State under the swamp grant. For the same reason you will decline to extend the lines of the public survey over said tract until the question of title is determined. It is not intended, under these instructions, that any entries, if there be such, should be cancelled, or that the status of any claim should be changed; neither is it intended to express any opinion on the question of the validity of any claim to the lands in question.

This order is intended merely to restrain any further disposal of any of said lands until the question of the title thereto can be determined by the courts, and the rights and interests of all parties therein protected.

The application of Mr. Hill is herewith transmitted.

Very respectfully,

C. SCHURZ,
Secretary.

COMMISSIONER GENERAL LAND OFFICE.

202 DEPARTMENT OF THE INTERIOR,
Washington, June 1st, 1879.

SIR: I am in receipt of your letter of the 19th inst. in which you refer to my decision dated May 4, 1878, in the matter of the "Houmas claim," and in which you recommended, for reasons stated, "that the lands embraced within the Conway portion of said grant as surveyed in the rear of the forty-two arpents in depth as required by your said decision, be restored to market."

You are hereby instructed to carry the decision of May 4th, 1878, so far as it relates to the Conway tract, into effect.

With reference to the Daniel Clark and the Donaldson & Scott tracts, for which patents are outstanding, no further action affecting the lands in said tracts will be taken by this department while said patents remain in force and uncancelled.

I herewith transmit for filing a letter upon the subject, addressed to me by Hon. E. M. Robertson.

Very respectfully,

C. SCHURZ,
203 *Secretary.*

THE COMMISSIONER OF THE GENERAL LAND OFFICE.

GENERAL LAND OFFICE,
January 11th, 1859.

Hon. JACOB THOMPSON,
Secretary of the Interior:

SIR: Application has been made to this office by the Hon. John Slidell for a patent to issue for what is known as the William Conway part of the Houmas claim in Louisiana, about 70 miles from New Orleans, and which portion, according to the transcript plat herewith certified by S. Gen'l McCulloh, 13 Nov'r, 1858, accompanying the enclosed patent cert. No. 125, contains $123{,}516\frac{90}{100}$ acres. This claim is entered as No. 125 in the report of the old board of land commissioners for the Orleans Territory, as found in 2d volume American State Papers, Public Lands, page 287. In the 2d section of the act of Congress, approved June 2d, 1858, "To provide for the location of certain confirmed private land claims in the
204 State of Missouri, and for other purposes," it is declared "that the decisions in favor of land claimants m'de by P. Grimes, Joshua Levis, and Thomas B. Robertson, commissioners appointed to adjust private land claims in the eastern district of the Territory of Orleans, communicated to the House of Representatives by the Secretary of the Treasury on the ninth day of January, one thousand eight hundred and twelve, and which is [are] found in the American State Papers, Public Lands (Duff

Green's edition) volume two, from page two hundred and twenty-four to three hundred sixty-seven, inclusive, be, and the same are hereby, confirmed, saving and reserving, however, to all adverse claimants, the right to assert the validity of their claims in a court or courts of justice; provided, however, that any claim so recommended for confirmation, but which may have been rejected in whole or in part by any subsequent board of commissioners, be, and the same is hereby, specially excepted from confirmation."

205 The present application is based upon this recent confirmatory law, and upon the ground that it is in the volume, and within the pages (being on page 287 of the volume) specially designated in said confirmatory act of 2d June, 1858, and that it has not been rejected "in whole or in part by any subsequent board of commissioners."

It is a fact that the claim is on a page within those specially mentioned in said confirmatory act, and no report of any subsequent board rejecting it in whole or in part is found as the basis on which it could in the precise terms of the said proviso be excluded from said act although the "Houmas" in its full extent was unfavorably reported upon under date 2d Dec'r, 1837, by the solicitor of this office.—Senate Doc. [197] 2d sess. 25th Congress herewith, pages 36 to 49, inclusive, and his opinion on 13th Feb'y, 1838, was concurred in by Commissioner Whitcomb, page 2 of said document:

1st. Upon the 1st point raised in this case, I am of opinion that
206 the unfavorable report of the solicitor and commissioner in the matter is not a rejection "by any subsequent board of commissioners," and consequently the terms of exclusion in the aforesaid proviso to the said confirmatory act of 2d June, 1858, do not apply to this case.

2d. The 2d and most material point is, the extent of the confirmation by the old board if a patent is to issue.

In connexion with this matter, it becomes necessary to recur to the antecedents of this important claim.

It is founded on an application in 1776 by Maurice Conway to the Spanish governor of the province of Louisiana, for a grant of lands purchased by him and one Latil of the "Houma Indians" upon the return of survey by the Spanish officer Andry, and by a patent dated 21st June, 1777, by Governor Galvez: Clark's edition Land Laws, 1828, pages 954, 955, 956.

The rear and side line extent of the Houmas was reported upon on
14th January, 1729, by S. Gen'l Turner, see Houmas Document
207 Senate [45] 2d sess. 28th Cong. 1845, No. 5, and by instructions of 17th Feb'y, 1829, (No. 6 of said doc.) Commissioner Graham imposed a limitation in making the survey to one league and a half in depth, stating at the same time that "the decision of the commissioners recognizes the Amite as the boundary of some portion of this grant, but their decision can only be considered as recognizing the validity of the grant as a complete title, and not as going to confirm any other lands than those included within the limits of the original grant," and so the survey was made, and between the rear lines fixed under Commissioner Graham's order and the Amite numerous sales were made as public lands until by an order, No. 7, of June 17, 1836, Commissioner Brown instructed the register at New Orleans that "although the office cannot recognize the

claim as confirmed, under any circumstances, to the extent contended for by the parties interested, yet, as the law prohibits the sale of any
208 lands to which a claim was filed in due time and according to law, with the commissioners for the purpose of being examined, the sale of any portion of the land within the limits claimed at the time of filing the same with the commissioners is unauthorized," &c., and so the matter rested until applications were made in 1844 for patents for two parts of the Houmas vs. Daniel Clark, No. 127, and Donaldson & Scott, No. 133, on the same page (287) of the report of the old board which embraces the Wm. Conway part, No. 125, when on the 12th August, 1844, Secretary Bibb decided that pursuant to the act of 18th April, 1814, patents should issue for the full extent of the claim extending from the Mississippi, on the front, back to the Amite River—see No. 64 in Houmas, Senate Document herewith—and patents were then accordingly issued. Subsequently, by joint resolution of 26th June, 1846, U. S. Statutes, 9th vol., page 110, No. 9, Congress ordered the Att'y-General to examine the matter with a view that proceedings might be "instituted in behalf of the United
209 States, and to have the validity of such patent or patents judicially determined." This was done, suit ordered, and, as I learn, the patents set aside, but without the court expressing any opinion as to the validity of the grant. (See Judge Campbell's letter herewith of 6th inst.)

And now the matter comes before us, as hereinbefore indicated, under subsequent legislation, viz, the provisions of the 2d section of said act of 2d June, 1858, and the question is, Does that act confirm the claim of Conway to the full extent, from the Mississippi to the Amite, as insisted upon?

The filing of the claim before the old board, see transcript No. 6, in Houmas document herewith, shows that the claim, as presented to that board, was for the full extent, and the said act of 2d June, 1858, confirms the decision, specially designating the page and volume embracing it. True, their power of final confirmation was restricted by the act of 3d March, 1807, to the extent of a league square, 7,056 arpens, but if the present
210 act extended no further than that limitation, the effect of it would merely be to reconfirm in this case.

Looking to the fact that Congress had before it the antecedents of the whole matter, and to their being no restriction in terms in the said confirmatory act of 1858, in this case, I can see no ground on which this office would be authorized in restricting the claim to any given depth short of that asserted before the old board, to wit, the Amite.

The hon'bl. Miles Taylor, however, holds a different view of the matter. He maintains, in letter herewith of 10th inst., that "the surveys made by Lafon in 1805 or '6, which accompanied the application of the claimants, were mere private surveys, and gave no rights whatever to the parties;" that this "is self-evident;" that "the fact that such surveys neither could, or did, give any rights, is shown by the decision of the Supreme Court of the U. S., in the case of Mackay vs. Dillon, reported in the 4th Howard."

211 Unaided by a confirmatory act of Congress, this is undoubtedly true; but such private surveys serve to fix the locus claimed, and if such decision was co-extensive with that locus thus claimed, the confirmatory act affirms it, and necessarily covers all the land thus claimed

and embraced in said decision, and this seems to be the effect of said act of 2d June, 1858.

So, in thus expressing an opinion, and with the purpose of sending a copy of this to that gentleman, I have the honor to submit the whole matter for your consideration and instructions as to our ultimate action upon the present application for a patent. At the same time I enclose with the Hon. M. Taylor's letters, a communication dated Sept. 22, 1858, from the surveyor-general stating his objections in the premises. All which is respectfully submitted.

With great respect, your ob't serv't,

THOS. A. HENDRICKS,
Commissioner.

DEPARTMENT OF THE INTERIOR,
212 *Washington, Dec'r 10th*, 1860.

SIR: By the private act, approved June 21st 1860, (chap. 178), the 2d section of the act of Congress of 2d June, 1858, and "all other parts of said act which relate to lands in Louisiana," are repealed "so far as said lands are concerned;" and Congress has refused to confirm "to the claimants under the Houmas grant the lands embraced in certificates number 125, to William Conway; number 127, to Daniel Clark, and number 133, to Donaldson & Scott.

I therefore return to your office, to be filed, the papers which accompanied your report of the 11th January, 1859, on the application for a patent for what is known as the William Conway part of the Houmas claim.

Very respectfully, &c.,

J. THOMPSON,
Secretary.

The COM'R OF THE GENERAL LAND OFFICE.

213 2nd. Certified copies of documents by the Commissioner of the General Land Office, March 31st, 1882, viz: 1°. Letter from Charles Hopkins, Solicitor of the General Land Office, to the Commissioner of the General Land Office, of 30th Sept., 1841, &c. 2°. Letter from Commissioner of the General Land Office to the Secretary of the Treasury, of Feb'y 14, 1842. 3°. Letter from Acting Secretary of the Treasury to the Commissioner of the General Land Office, of August 2nd, 1842. 4°. Letter from the Commissioner of the General Land Office to the Secretary of the Treasury, of August 9th, 1842, &c. 5°. Letter from the Commissioner of the General Land Office to the Attorney-General, of August 16th, 1842. 6°. Letter from the Commissioner of the General Land Office to the Hon. Wm. R. King, of the U. S. Senate, of 1st March, 1844. 7°. Patent issued on claim of Donaldson and Scott, August 22nd, 1844. 8°. Patent issued on claim of Daniel Clark, August 22nd, 1844. Filed April 17th, 1882, in the case of Alfred Sli-
214 dell et als. vs. Thomas J. Emler et als., No. 9828 of the docket of this court. Offered in evidence by complainants May 1st, 1882, marked 2nd.

D. DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., March 31st, 1882.

I, N. C. McFarland, Commissioner of the General Land Office, do hereby certify that the annexed copies of papers relative to the "Houmas grant," in the State of Louisiana, are true and literal exemplifications of the original as they now appear upon the files or of record in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] (Signed) N. C. McFARLAND,
Commissioner of General Land Office.

No. 343.] GENERAL LAND OFFICE, SOLICITOR'S BUREAU,
September 30th, 1841.

215 *The Houma grant.—The claim of Wm. Conway.*

SIR: The claim of William Conway to a portion of that tract of land situate in Louisiana, known as the "Houmas grant," with the voluminous documents accompanying the same, and my opinion, are herewith respectfully transmitted.

The first branch of the subject which presents itself is the treaty between the United States of America and the French Republic of April 30th, 1803. (Elliott's Diplomatic Code, volume 1, page 109.) The third article provides that "the inhabitants" "shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess."

In 9 Peters, Delassus vs. The United States, page 133, will be found the following paragraph:

"The language of the treaty ceding Louisiana excludes every idea of interfering with private property; of transferring lands which had been severed from the royal domain. The people change their sovereign; their right to property remains unaffected by this change."

It results, therefore, that the claim before me, if good under the
216 government from which it emanated, must be so far held good under the United States.

What, then, was the character of the claim under the Government of Spain? It purports to have been derived from Maurice Conway, he having acquired a title to this and other tracts from the Spanish Crown.

In volume 1, Land Laws, pp. 954, 955, and 956, the whole proceedings forming the foundation of the title of Maurice Conway are given. I deem it useless to spread these proceedings on the record, and have only to remark that on the face of them the title appears duly perfected, so far as its authenticity is concerned.

The question which has heretofore arisen, and which now more especially demands an answer, is as to the extent of the claim.

The original "Houmas grant" to Maurice Conway embraced ninety-six arpens front by forty arpens in depth, and Maurice Conway, in his petition, asks for "all the depth which may be vacant behind and at the end of the aforesaid forty arpens of depth."

217 It has been heretofore contended that the grant, which follows

the language of and corresponds with the petition, could only embrace so much land as might have been legally acquired from the Crown of Spain for an Indian village, viz, a league square, and that the vacant land, as granted, is confined to such an interpretation. I do not find reason for or evidence to sustain such an interpretation, and reject it. The more formidable proposition is that by the then existing laws and regulations of the Spanish Government no grant could have been legally made in that territory to exceed one league in front by one league in depth, especially according to Governor O'Reilly's regulations.

The eighth article of those regulations (Spanish Land Laws, page 205) is as follows: "No grant in the Opelousas, Attakapsas, and Natchitoches shall exceed one league in front by one league in depth; but when the land granted shall not have that depth, a league and a half in front
218 by half a league in depth may be granted." The application of these regulations to this and other kindred claims, limiting the extent, might be still considered an open question were it not for the solemn adjudication of the highest tribunal of this country; and not only highest here, but second to none in the annals of jurisprudence for the strength, stability, and dignity of its decisions.

This point has been repeatedly made in the case of the United States vs. Arrendondo, 6 Peters, 691; Percheman vs. the United States, 7 Peters, 51; the United States vs. Clarke, 8 Peters, 436; and Delassus vs. the United States, 9 Peters, 117. I shall content myself with citing only a paragraph from the last named case (9 Peters, p. 135).

Commenting on Governor O'Reilly's regulations, the court say: "It is apparent that those regulations were intended for the general government of subordinate officers, not to control or limit the power of the person from whose will they emanated." The conclusion to which I have arrived is,
219 therefore, that, notwithstanding those regulations, if a solemn grant may have been made under the authority of the Crown of Spain, exceeding them, it is valid. With a claim, then, derived from the Crown of Spain, duly authenticated, Maurice Conway, or his representatives, applied to the commissioners appointed by Congress, by an act of March 2nd, 1805 (Laws and Opinions, part 1, p. 122), for confirmation of his title under section fourth of said act. The title of William Conway to his portion of the claim was confirmed by the board of commissioners aforesaid, and a report of said confirmation is found in American State Papers, volume 2, p. 287, No. 125, being included in a report dated January 9th, 1812. The confirmation is in these words: "William Conway claims a tract of land situate in the county of Acadia, at a place called the Houmas, on the left bank of the Mississippi, containing twenty-two and a half arpens in front, with an opening toward the rear of sixty degrees forty-five minutes; the upper line running north nine degrees fifteen
220 minutes east three hundred and fifty-one arpens; and on the lower line directed north seventy degrees east, and measuring four hundred and fifty-five arpens; bounded on the upper side by Daniel Clark's land and on the lower by Simon Laneau. It appearing to the board from a patent or complete title exhibited that seventeen arpens of front were, together with a greater quantity, granted by the Spanish Government to Maurice Conway 21st June, 1777, and it appearing that the five and a half arpens of front remaining of the land aforesaid were purchased by

Pierre Park, at a public sale of the estate of the late Joachim Miro alias Belony, on the 7th day of December, 1788, and it further appearing to the board, from the several instruments of conveyance offered in testimony, that the two tracts of land aforesaid have been conveyed to the present claimant, the board do hereby confirm his claim aforesaid."

The decision of the board of commissioners, thus made, is to be taken as conclusive of the facts settled by it, unless those facts are shown to be inconsistent or erroneous. The detail of the examination is not of
221 course given; nor can I find anything in the course of my investigation to refute the facts as reported touching the validity of the grant or its extent. The case is therefore thrown back to the original inquiry, whether the grant, as found, was authorized by the laws of Spain? An answer in substance has been already given to this interrogatory in the affirmative. The last point in this case is whether it has been confirmed by any act of Congress. The claimant relies on an act of April 18th, 1814 (Laws, Opinions, &c., part 1, p. 247), entitled "An act concerning certificates of confirmation of claims to lands in the State of Louisiana." The language of the act is not so explicit as to leave no ground for a doubt. It is, however, sufficiently so to include this claim by a liberal interpretation of the terms employed in the paragraph commencing at the 11th line of 1st section, as follows: "And on claims included in the transcript of [divisions] decisions made in favor of claimants, and transmitted
222 to the Secretary of the Treasury." The first branch of this section is specific, and confined to claims under the act of 3rd March, 1807; and the second, as cited, is merely a qualification of the first, or distinct. It is not in the appropriate language of a mere qualification, but in the usual form of an additional provision. With some hesitation I decide that the act of April 18th, 1814, cited above, does confirm the claim.

It should be remarked as giving strength to this opinion that, at the date of April 18th, 1814, no other transcript of decisions relating to lands in Louisiana had been made except the one of January 9th, 1812, aforesaid.

I will briefly recapitulate the points made and settled in this examination:

1st. That the treaty between the United States and the French Republic, of April 30th, 1803, guarantees the titles held by private persons in the ceded territory.

2nd. That the original title, from which that of the claimant,
223 William Conway, is derived, rightfully emanated from the Crown of Spain, and is an authentic and valid title.

3rd. That the extent of said title, as claimed, is considered legally substantiated.

4th. That the decisions of the board of commissioners is based on soundness of fact and of law.

5th. That the act of Congress of April 18th, 1814, confirms this claim.

6th. That the claimant is entitled to a patent for the quantity of land confirmed to him by the board of commissioners, and described in a transcript of the report embodied in this opinion.

In justice to Mr. Solicitor Birchard, for whom and for whose legal opinions I entertain much respect, I may be permitted to remark that

my view of the Houmas grant differs from the one taken by him, in an opinion dated December 2nd, 1837 (No. 147), chiefly from a different estimate of the decisions of the Supreme Court of the United States.

Mr. Solicitor Birchard did not seem to regard the opinion of
224 that court, relative to the claim of the tract of land of which this is a portion, as conclusive of its merits on the only important question involved—that of the restrictions on the power of the Spanish governor in making grants of lands. I have been compelled, from a sense of official duty, as well as from veneration for the character of that tribunal, to treat its decisions cited herein as preventing my consideration for that branch of the case as open to further or different construction.

I submit my opinion in this case with great deference to those who may review it. Isaac T. Preston, esq., in behalf of the claimant, has presented this case to my consideration, with an ability and research fully sustaining his character as a lawyer of learning; but he asks of this department what, with deference be it said, will not be readily conceded, that is to examine and adjudge this case in a ministerial capacity only.

The General Land Office, from principles well established, and
225 from long usage, claims the right to pass upon all matters submitted to it for decision in such manner that the laws shall be faithfully executed.

Any other course would lead to a direct violation of sworn duty, and substitute the frauds and palpable errors of subordinate or auxiliary officers for deliberate conviction and manifest justice in the application and execution of the law.

I am, very respectfully, your obedient servant,

(Signed) CHARLES HOPKINS, *Solicitor.*

To Hon. E. M. HUNTINGTON,
Commissioner of the General Land Office.

GENERAL LAND OFFICE,
February 14th, 1842.

Hon. WALTER FORWARD,
Secretary of the Treasury:

SIR: Herewith I have the honor to submit the application of Isaac T. Preston, esq., for a patent to issue for the claim of William Conway, entered as No. 125 in the report of the commissioners for the eastern district of the territory of Orleans, and printed in American
226 State Papers, Public Lands, by D. Green, vol. 2, page 287, accompanied by the papers therein referred to as A, B, C, D; also E No. 1., a separate plat of the survey of the claim by Andrew McCollom, and E No. 3, another plat exhibiting that survey, and an additional tract (commencing 40 arpents from the Mississippi and running back to Lake Maurepas), colored blue on the plat, surveyed in October, 1840, and June, 1841, by E. D. Richardson, as a portion of the claim in question.

Herewith are also transmitted certain other papers, as referred to in the accompanying list G, most of which were presented by Mr. Preston when he filed his application, and others having reference to proceedings heretofore had in regard to what is known as the Houmas grant.

The above-mentioned claim of William Conway is a part of the said Houmas grant, under that denomination being also included the claim

No. 127, of Daniel Clark, and the claim No. 133, of William Donaldson and John W. Scott. (Same report and same vol. and page of American State Papers.)

227 The surveys referred to of the Conway claim represent the upper line, as extended from the Mississippi River to the Amite River, and the lower line as extending from the Mississippi River to Lake Maurepas.

Commissioner Graham, in a letter of the 27th February, 1829, to S.-Gen'l Turner (page 11 of paper B, being the printed memorial of the heirs of Wade Hampton), prescribed a limitation to the Houmas grant of a league and a half in depth, leaving a large body of land between that depth and the Amite River to be treated as public lands, and a considerable number of sales thereof were made at the district land office.

Commissioner Brown, however, in a letter of the 17th June, 1836, to the register at New Orleans, page 12 of the said document B, states, "That although this office cannot recognize the claim as confirmed under any circumstances to the extent contended for by the parties interested, yet as the law prohibits the sale of any lands to which a claim was

228 filed in due time and according to law with the commissioners for the purpose of being examined, the sales of a portion of the land within the limits claimed at the time of filing the same with the commissioner is unauthorized, and I therefore have to request that you withhold all the lands within the claimed lines from entry," &c.

Solicitor Burchard, in a report of the 2nd December, 1837, Senate [197], 2nd session, 25th Congress [doc. No. 3, page 37, with paper O], whose conclusions were concurred in by the commissioners, decided adversely to the extent claimed by the parties interested, and recognizes sales of lands without the limits prescribed by Mr. Graham, but within the extent contended for by the claimants.

In letters from this Commissioner, dated 3rd April, 1839, (paper O), and 3rd October, 1840 (paper Q), copies herewith, accompanied by the papers therein alluded to, the subject-matter was brought to the attention of the Secretary of the Treasury, who, as then advised, in a letter of the 31st October, 1840 (copy R), concurred in the Commissioner's

229 suggestion "that no further steps be taken in the matter until Congress shall have further opportunity for legislative action."

The aforesaid application of Mr. Preston, with the various papers in the case, having been referred to the present solicitor of this office, that officer made a report thereon, No. 343, herewith, in which it will be seen that he settles in favor of the claim several points made in the case.

In consideration of the different opinions entertained in regard to this claim by former Commissioners of this office, and by a former solicitor, and of the action had in the premises by one of your predecessors, in view also of the hesitation intimated by Solicitor Hopkins in making his decision, settling affirmatively the question as to the confirmation of the report by the act of 18th April, 1814, I have the honor respectfully to request, that the opinion of the Attorney-General may be taken and your instructions given on the following points:

230 1st. Is the extent of the original title as claimed, from which William Conway derived title, legally substantiated?

2d. Does the act of Congress of the 18th April, 1814, laws, opinions,

&c., part 1, p. 247, entitled "An act concerning certificates of confirmation of claims to lands in the State of Louisiana," confirm this claim of William Conway?

3rd. Is the claimant entitled to a patent for the quantity of land confirmed to him by the board of commissioners, and described in report No. 125, vol. 2, American State Papers, Public Lands, by D. Green, page 287?

4th. Does the confirmation by the board extend to and embrace the claim as exhibited by the plat of Laforn, paper E No. 4, forming part of the transcript of the papers filed in support of the claim), which represents the claim with opening side lines as extending on the upper line from the Mississippi to the Amite River, and on the lower side from the
231 Mississippi to Lake Maurepas, and which is represented to be within the surveys exhibited by plat E No. 3?

The decision on this case will also determine the course of executive action on the other two claims, No. 127 and 133 (hereinbefore mentioned as forming a part of the Houmas grant), and also in regard to the sales interfering therewith.

With great respect, your ob't servant,

(Signed) E. M. HUNTINGTON,
Commissioner.

LIST G.

William Conway claim No. 125, part of the Houmas grant.

A. (No. 5.) Transcript of the confirmation by the commissioners of William Conway claim No. 125.

B. Printed memorial of the rep's of Wade Hampton, Senate [144] 2nd session, 25th Congress.

C. Answer on behalf of the proprietors of the Houmas grant to the report of Mr. Birchard [as] Solicitor of the General Land Office.

232 D. Opinion of the supreme court of Louisiana in regard to the McDonough claim, &c.

E. No. 1. Plat of the survey by Andrew McCollom, with a certificate of the S. Gen'l, dated May 6, 1836. Appended to this is—

E. No. 2. List of entries at the New Orleans land office, supposed to interfere with this claim.

E. No. 3. Plat showing the survey of plat E No. 1, and showing in blue an additional strip of land (commencing 40 arpens from the Miss. River and running back to Lake Maurepas) surveyed by E. D. Richardson in October, 1840, and June, 1841, as a part of the Conway claim.

E. No. 4. Transcript from the records of the land office at New Orleans, exhibiting a plat by Lafon of the Conway claim and other written instruments offered in support of said claim; also exhibits the decision of the board.

F. (No. 3.) Copy of the petition and grant of the Houmas lands; also the original grant to Maurice Conway.

G. (No. 6.) Sale by Maurice Conway to W. Conway.

H. 5. Fevier 1795, Wm. Conway hipoteca to James Mather.

233 I. (No. 3.) Mortgage; William Conway to Juan Joyce.

K and K[a]. Copy of a letter from the reg'r at New Orleans, dated 13th February, 1841, and his certificate of 20th September, 1841.

Daniel Clark claim No. 127, part of the Houmas grant.

L. Transcript with a plat by Lafon of the claim of Daniel Clark, No. 127 in said report, being a part of the Houmas grant, with notice of the claim and a letter from the Gen'l L. Office to Hon. R. C. Nicholas, dated 17th June, 1836.

L. (No. 1.) Plat dated 6th July, 1841, at the Surveyor-General's Office.

L. (No. 2.) List of sales interfering therewith.

Claim of William Donaldson and John W. Scott, No. 133 in the report, being part of the Houmas grant.

M. Transcript, with a plat by Lafone of the title papers connected with the claim of Donaldson and Scott, designated as No. 133 in the report, and forming part of the Houmas grant.

M. (No. 1.) Plat dated 6th July, 1841, at the S. Gen'l's Office, exhibiting the claim of Donaldson & Scott.

M. (No. 2.) List of sales interfering therewith.

234 N. (No. 4.) Copy of the proceedings respecting the sale by the parish judge of Maxent's land, which was purchased by Lewis Favre. (Document J), also (No. 4) C in Spanish.

N. (No. 1.) Document L, with draft of petition presented by E. D. Livingston, from Wm. Donaldson to Gov. Claiborne.

O. Copy of a letter dated April 3rd, 1839, from the Commissioner of the Gen'l Land Office to the Secretary of the Treasury, with the papers therein referred to, viz:

(1). A letter from Mess. King and Wilson, with an endorsement thereon by Solicitor Birchard.

(2). The printed memorial of the representatives of Wade Hampton and—

(3). The document embracing the report of December 2nd, 1837, of Solicitor Birchard on the Houmas claim.

P. Letter from King and Wilson, dated 19th August, 1840.

Q. Letter dated October 3rd, 1840, from the Commissioner of the General Land Office to the Secretary of the Treasury.

R. Letter from the Secretary of the Treasury, dated October 31st, 1840.

S and S. (No. 1). Two plats, exhibiting in connection the claim
235 No. 127 of Daniel Clark, and that No. 133 of Donaldson and Scott.

TREASURY DEPARTMENT,
August 2nd, 1842.

SIR: I communicate herewith a letter from the Attorney-General relative to the case of Wm. Conway, and the papers connected therewith, and call your attention to the request of the Attorney-General, that another statement should be prepared for his examination and opinion in the case.

On the submission of such a statement to me I will promptly bring the case again before the Attorney-General.

Very respectfully,

(Signed) McC. YOUNG,
Acting Secretary of the Treas'y.

THOMAS H. BLAKE, Esq.,
Commissioner of the Gen'l Land Office.

GENERAL LAND OFFICE,
August 9th, 1842.

McC. YOUNG, Esq.,
Acting Sec'y of the Treasury Department:

236 SIR: With your letter of the 2nd inst. I had the honor to receive that of the 25th ult'o from the Attorney-General, accompanied by the papers relative to the Houmas claims, and a communication from my predecessor, of the 14th February last, having special reference to the claim of Wm. Conway, which constitutes a portion of said claim.

The papers received with your letter are herewith returned, and, pursuant to request, I submit the "following history of the facts":

The Houmas claim is situated on the left bank of the Mississippi River in the parish of Ascension and Iberville, Louisiana, about 70 miles above New Orleans. It covers a large tract of country between the Mississippi River on the south and the River Amite on the north, with divergency of side lines on the east and west.

The claim had its origin in a purchase by Maurice Conway and Alexander Latil of the Houmas Indians (by the chief, Calabe), with the approbation of the Spanish officer, Unzaga. See pages 13 and 14, c., in the printed memorial of the rep's of Wade Hampton, enclosed in paper
237 O, No. 2.

On the 9th Sept., 1776, Maurice Conway, in a petition to the governor-general, represented that he was about to settle "on the lands which" he and Latil had purchased of the Houmas Indians, with the governor's approbation; that his "excellency having granted to" (them, Conway and Latil) "only the depth of forty arpens, with "which shortness of depth" the petitioner could not "have access to the cypress trees, so necessary for the construction of" his "fences and other utilities of a plantation," and he petitioned the governor to grant him "all the depth which may be vacant behind or at the end of the aforesaid forty arpens of depth," whereof the said Conway claimed to be "the sole owner by virtue of a deed of conveyance" of "the moiety belonging to Mr. Latil aforesaid," and the petitioner further applied to be "put in possession of the aforesaid front and depth by fixing the needful boundaries," &c.

On the 27th Sept., 1776, Unzaga, by a decree directed Louis
238 Andry, capt. of infantry, &c., "to go to the land alluded to in the" memorial and to "give the petitioner possession of that which may be vacant after the forty arpens in depth, of which he is in possession, following the same directions, provided it be vacant and that no injury is thereby done to any of the adjoining inhabitants, to which effect he shall establish his boundaries and limits, and of the whole proceedings he shall make a process verbal," of which he was required to make a return, in order that a complete title might issue in form to the claimant.

Andry, under date 1st Oct., 1776, makes a return accordingly, stating that he "found that it (the land) contains ninety-six arpens in front on the river, opening one hundred and twenty degrees towards its rear, owing to its situation in the bottom of the bend," &c.

It appears also that Conway purchased Oct. 18th, 1776, of the Mess. Landry, immediately above and adjoining the land referred to, 6 arpens in front by 40 in depth. (See aforesaid printed memorial, pages 5 and 15 D.)

239 Governor Galvez, on the 21st June, 1777, executed a grant in favor of Maurice Conway, in accordance with the proceedings of Andry pursuant to the decree of the predecessor of said Galvez.

The petition of Maurice Conway, decree of Unzaga, return of Andry, and the patent by Galvez may be found in the appendix to Clark's Compilation of Land Laws, pages 954, 955, and 956.

On this grant to Maurice Conway are based the aforesaid claim of William Conway, that of Daniel Clark, and that of William Donaldson and John W. Scott, which the department has been called on to recognize to the full extent claimed, as represented in plats E No. 1 and E No. 3 for the claim of William Conway, in plat L No. 1 for the claim of Daniel Clark, and in plat M No. 1 for the claim of Donaldson and Scott, and in regard to which advice and instructions are desired in points hereinafter submitted.

240 On the 2nd March, 1805, an act of Congress was approved "For ascertaining and adjusting the titles and claims to land within the Territory of Orleans and the district of Louisiana" (Clark's Comp. of Land Laws, page 518), the 4th sect. of which provided for the recording of legal French or Spanish grants, &c. (p. 519), and the 5th section of said act (p. 520) for the appointment of a board of commissioners "for the purpose of ascertaining within their respective districts the rights of persons claiming under any French or Spanish grant as aforesaid," &c., with power to decide in a summary way, according to justice and equity, on all claims filed with the register or recorder, in conformity with the provisions of this act, and on all complete French or Spanish grants the evidence of which, though not thus filed, may be found of record on the public records of such grants, which decisions shall be laid before Congress in the manner hereinafter directed, and be subject to their determination thereon; provided, &c.,

241 On the 21st April, 1806, an act was passed, supplemental to the said act of 1805, extending the time for filing, &c. (see page 532 of said compilation), and on the 3rd March, 1807, another act was approved "respecting claims to land in the Territories of Orleans and Louisiana (page 548, of Comp's of L. L.), the 4th section of which (p. 549) provides, "that the commissioners appointed or to be appointed for the purpose of ascertaining the rights of persons claiming lands in the Territories of Orleans and Louisiana shall have full powers to decide, according to the laws and established usages and customs of the French and Spanish Governments, upon all claims to lands within their respective districts, where the claim is made by any person or persons, or the legal representative of any person or persons who were on" the 20th Dec'r, 1803, "inhabitants of Louisiana, and for a tract not exceeding the quantity of acres contained in a league square, and which does not include either a lead mine or a salt spring, which decision of the commissioners,

242 when in favor of the claimant, shall be final against the United States, any act of Congress to the contrary notwithstanding."

The 8th section of the said act (page 550) provided "that the commissioners aforesaid shall respectfully report to the Secretary of the Treasury their opinion on all the claims to land within their respective districts which they shall not have finally confirmed by the fourth section of this act. The claim shall, in the said report or reports, be arranged into three general classes; that is to say, first, claims which, in the opinion of the commissioners, ought to be confirmed in conformity with the provisions of the several acts of Congress for ascertaining and adjusting the titles and claims to land within the territories of Orleans and Louisiana; secondly, claims which, though not embraced by the provisions of the said act, ought, nevertheless, in the opinion of the commissioners, to be confirmed in conformity with the laws, usages, and customs of the Spanish Government; thirdly, claims which neither are embraced by the provisions
243 of the said acts nor ought, in the opinion of the commissioners, to be confirmed in conformity with the laws, usages, and customs of the Spanish Government, and the said report and reports being in other respects made in conformity with the forms prescribed according to law by the Secretary of the Treasury, shall by him be laid before Congress for their final determination thereon in the manner and at the time heretofore prescribed by law for that purpose." With the board of commissioners, organized pursuant to the act of 1805, the aforesaid William Conway, Daniel Clark, and William Donaldson and John W. Scott entered their claims, and the reports on those claims are printed by D. Green, in American State Papers, Public Lands, vol. 2, page 287. (See also page 224.)

The claim of William Conway is entered as No. 125, for a tract of land "at the place called the Houmas, on the left bank of the Mississippi,"
244 containing 22½ arpens in front, with an opening towards the rear of 60° 45″, the upper line running north 9° 15″ E. 351 arpens, and on the lower line directed north 70° E., and measuring 455 arpents, "bounded on the upper side by Daniel Clark's land and on the lower by land of Simon Laveau."

The board "confirm his claim aforesaid." The claim of Daniel Clark is entered as No. 127, for a tract at a place called the Houmas, containing ten (10) acres in front on the left bank of the Mississippi, and running back to the river Amite, bounded on the upper side by lands of Donaldson and Scott and on the lower by those of W. Conway.

The board "confirm him in his said claim."

The claim of Wm. Donaldson and John W. Scott is entered as No. 133, for a tract on the left bank of the Mississippi, "containing twenty-nine (29) acres in front, with the depth to the river Amite, bounded on the upper side by land of one Simonet and on the lower by land of Daniel Clark." The board do "confirm his said claim." Under the re-
245 ports on these cases is appended a note by Thomas B. Robertson, stating that the "three foregoing decisions were made before" he "became a member of the board," and stating that as far as he was "authorized to do so," he dissented "from the same."

On the 14th January, 1829, Jas. P. Turner, then s. gen'l, addressed a letter to Comm'r Graham (see printed memorial of the rep's of Wade Hampton, page 10, H.), enclosing "a rough plat of the Houmas grant,

showing its locality, the extent claimed, and its interference in part with other grants made by the Spanish Government."

That letter was adverse to the extent claimed by the parties interested, and expressed an opinion that the claim was designed to have the depth of 80 arpents if found to be vacant, &c.

On the 17th February 1829, (page 11 of said printed memorial), Commissioner Graham acknowledged the receipt of S. Gen'l Turner's letter and plat, stated that "on an examination of the above papers (those ref'd
246 to in his letter) he was of opinion that the grant made by Galvez, on the 21st day of June, 1777, is so vague in its terms, both as to boundary and quantity, that it will be indispensably necessary for the courts of justice to interfere for the purpose of defining and designating both," &c. And Mr. Graham advises Mr. Turner also that, "if, therefore, in making your surveys, you assume this last limitation, to wit, a league and a half, as the extent of the grant to Maurice Conway, dated the 21st of June, 1777," he thought "that we shall have given scope full for the court to exercise its discretion," &c., and states that "the decision of the commissioners recognizes the Amite as the boundary of some portion of this grant; but their decision can only be considered as recognizing the validity of the grant as a complete title, and not as going to confirm any other lands than those included within the limits of the original grant," &c.

Mr. Graham thus prescribed a limitation to the Houmas claim of a league and a half in depth, leaving a large body of land between
247 that depth and the Amite River to be treated as public lands, and a very considerable number of sales thereof were made at the district land office, as will be seen by the lists accompanying these papers.

Commissioner Brown, however, in a communication of the 17th June, 1836, to the register at New Orleans (pages 12 & 13 of the printed memorial), states that "it having been represented to this office that entries had been permitted at your office of lands within the limits of the Houmas grant, as claimed before the board of commissioners, I have to advise you that, although this office cannot recognize the claims as confirmed under any circumstances, to the extent contended for by the parties interested, yet as the law prohibits the sale of any lands to which a claim was filed in due time and according to law, with the commissioners, for the purpose of being examined, the sale of any portion of the land within the limits claimed, at the time of filing the same with the commissioners, is
248 unauthorized, and I therefore have to request that you withhold all the lands within the claimed lines from entry," &c.

In a report dated December 2nd, 1837, Senate [197] 2nd session, 25th Congress, page 37 of doc. No. 3, with paper 6 herewith, Solicitor Burchard, whose conclusions were concurred in by the Commissioner, decided adversely to the extent claimed and in favor of sales of land without the limits prescribed by Mr. Graham, but within the extent contended for by the claimants.

In letters from the Commissioner of this office, dated April 3rd, 1839, and 3rd October, 1840, copies herewith, papers O and Q, the matter was brought to the attention of the Secretary of the Treasury, who, in a letter of the 31st of October, 1840, copy R herewith concurred in the Commissioner's "suggestion that no further steps be taken in the matter until Congress shall have had further opportunity for legislative action."

Isaac T. Preston, esq., as represented in the letter to the Secretary
249 from this office, of the 14th Feb'y last, made application for a patent to issue for the claim of No. 125 of William Conway, hereinbefore mentioned as forming part of the Houmas claim, which application, with the various papers in the case, was referred to Mr. Solicitor Hopkins of this office, who made a report thereon, No. 343 herewith, settling in favor of the claim several points.

For the reasons mentioned in the communication from my predecessor, the opinion of the Attorney-General and the instructions of the Secretary of the Treasury were requested in the case for the government of this office.

The questions arising in these cases from the facts submitted may be reduced to the following, viz:

1st. Does the act of Congress approved 18th April, 1814, land laws, page 657, entitled "An act concerning certificates of confirmation of claims to lands in the State of Louisiana," apply to and confirm these claims?

2nd. If these cases are confirmed by that act, must the confirmation be understood as extending to the respective claims as set forth
250 on the face of the reports and further exhibited by the transcripts from the records at New Orleans. (See manuscripts E, No. 4, Wm. Conway; transcript L, Dan'l Clark; transcript M, Donaldson and Scott)—or as extending to the claims within the original grant by Galvez?

3rd. If confirmed to the lands within the original grant by Galvez, are the terms of that grant, in connection with the proceedings by Andry, sufficient to show that the present claimants are entitled to the back lands as claimed, from the Mississippi to the Amite and Lake Maurepas, or what should be held and considered as the depth from the Mississippi to which the parties are entitled, or how shall this point be determined?

4th. In the case of Daniel Clark the front is represented in the report as being 10 acres. In the return of survey by Lafon of the 25th Sept., 1805, as represented on the transcript, it seems that two tracts each of 10 arpents front were claimed, making a front of 20 arpents. If these
251 claims are confirmed by the aforesaid act will the confirmation cover more than the extent of front as set forth on the face of the report? (NOTE.—A claim for the full extent of front in this case is entered as No. 36 in the report dated 22nd November, 1837, of the land officers at New Orleans, under the act of the 6th Feb'y, 1835, "for the final adjustment of claims to land in the State of Louisiana." Printed document, Senate 197, 2nd sess. 25th Congress, page 11. No. 3 with paper O herewith.)

5th. If the aforesaid claims are not confirmed by the said act, are they otherwise confirmed by law; and if so, to what extent?

It appears that within the limits claimed for Conway, Clark, Donaldson and Scott, other Spanish grants are situated.

If the three claims in question are recognized to the full extent claimed, the conflict will have to be determined in the manner prescribed by the act of 3rd March, 1831, acts 2nd sess. 21st Cong., page 110, chap. 115, 6th section.

252 The decision on these claims Nos. 125, 127 & 133 will, of

course, determine executive action in regard to the sales hereinbefore mentioned.

With great respect, your ob't servant,
(Signed) THO. H. BLAKE,
Commissioner.

GENERAL LAND OFFICE,
August 16th, 1842.

Hon. H. S. LEGARÉ,
Att'y Gen'l U. States:

SIR: I have the honor to acknowledge the receipt of your communication of this date, and in reply submit the following:

You request me, "1st, to ascertain if a patent has ever been granted on any complete French or Spanish title beyond the extent of one league square within the territory of Orleans."

I reply in the negative, so far as I have been able to ascertain by a cursory examination of the records. It may be proper, however, here to state that in the report of the 9th March, 1813, of the commissioners for
253 the western district of Louisiana, the claim of Miller and Fulton, being a purchase from certain tribes of Indians, is entered as No. 125 for 46,800 arpens. (See American State Papers, vol. 2, pages 644 and 655), and that a patent has been issued for $17{,}779\frac{77}{100}$ acres, in satisfaction of said claim.

For the particulars as to the nature of this claim reference is respectfully given to the report alluded to.

The claims recommended for confirmation in the aforesaid report of the 9th March, 1813, are confirmed by the act of 29th April, 1816 (Clark's Compilation of Land Laws page 699), to an extent not exceeding a league square, and Commissioner Graham having recognized, by a letter of 20th March, 1827, to the S. Gen'l (Extract A, herewith) the right of the claimants to confirmation of a league square for each tribe of Indians from whom they purchased, the surveys for the quantity above mentioned ($17{,}779\frac{77}{100}$ acres) was admitted and patented as stated.

You enquire, 2nd, "whether any certificates of confirmation have
254 ever been issued by the commissioners on complete titles, as aforesaid, beyond the extent of one league square."

I answer negatively, so far as is shown by the abstracts and copy abstracts in this office of confirmation certificates issued by the old boards. The abstracts referred to are of claims acted upon by the old board of commissioners for the western district of Orleans territory. The copy abstract is of claims acted on by the old board for the eastern district of said territory.

From irregularities, &c., in the numbers of certificates, &c., in the said copy abstract, it is believed that it does not embrace a list of all the confirmation certificates that may have been issued.

Further and more certain information on this subject, and in regard to this point of your inquiry, it is probable, could be had by a call on the surveyor-general at Donaldsonville and the land officers at New Orleans, La. It may be observed, however, as you are aware, the 4th section of the act of 3rd March, 1807, limits the commissioners, in making
255 to claims not exceeding a league square.

The 6th sect. of said act provides for the issuing of certificates in the cases of final decisions in favor of claimants, and the 8th sect. provides that the commissioners shall "report to the Secretary of the Treasury their opinion on all the claims to land within their respective districts which they shall not have finally confirmed by the fourth section of this act." Unadvised of anything further bearing materially upon your remaining enquiry, or those adverted to in the foregoing, I have the honor to remain,

With great respect, your ob't servant,

(Signed) THO. H. BLAKE,
Commissioner.

GENERAL LAND OFFICE, *March 1st*, 1844.

Hon. WM. R. KING, *Senate U. States:*

DEAR SIR: There must certainly be some mistake in the re-
256 marks made by the Senator, or in the inference drawn from them, that this office was about to issue a patent for the Conway claim in Louisiana. That claim is a part of what is denominated the Houmas claim, and so far from intending to issue a patent to any of the claimants in the case, this office has uniformly and invariably declined to do so, and the language of the department respecting the Houmas title has been that it "would not decide that question;" that "it is to be determined by the the courts;" and again, as to the extent of the Houmas claim, "it is for the courts of law or Congress to decide." This grant, as contended for by the claimants, extends from its front on the Mississippi, with opening side lines on the northwest almost to another point on the Mississippi near the junction of that river and the Iberville on Bayou Manchac, and on the southeast extending to Lake Maurepas and the Amite. (See Graham's map of Louisiana, 1838, on which they are marked.)

It is possible the allusion was to what is called the Pellerin
257 case, in Mississippi, and which embraces, according to a return of survey, 11,569 $\frac{98}{100}$ acres, as the returns and other papers in this case have been recently undergoing examination in this office, with a view of issuing the patent, not, however, under any adjudication upon the merits of the claim by this office, but in pursuance of the act of Congress of August 1st, 1842, expressly directing it.

With great respect, your ob't servant,

THO. H. BLAKE,
Commissioner.

* Excepting a portion of the SE. line not continued on the map to the lake nor perfectly defined.

The United States of America to all whom these presents shall come, greeting:

Whereas there has been deposited in the General Land Office a certificate of the register of the land office at New Orleans, Louisiana, with a plat of the survey of the tract of land therein mentioned, whereby it appears that by the act of Congress approved on the eighteenth
258 day of April, one thousand eight hundred and fourteen, entitled "An act concerning certificates of confirmation of claims to lands in

the State of Louisiana," the claim of William Donaldson and John W. Scott, entered as number one hundred and thirty-three in the "Decisions of the board of commissioners for the eastern district of the Territory of Orleans," has been confirmed, and that the same has been surveyed and designated as section thirty-seven in township eight of range one east, section thirty-seven in township eight of range two east, section eighty-two in township nine of range one east, section fifty-three in township nine of range two east, section forty in township nine of range three east, section seventy-six in township ten of range two east, and section six in township ten of range three east, containing together thirty-six thousand five hundred and eighty-two acres and nineteen hundredths of an acre, lying east of the Mississippi River, and situated in the southeastern land district, Louisiana:

259 Now know ye that the United States of America, in consideration of the premises, and in conformity to law, have remised, released, and forever quitclaimed, and by these presents do remise, release, and forever quitclaim unto the said William Donaldson and John W. Scott, or to their legal representatives and to their heirs, the said land above described, to have and to hold the same, together with all the rights, privileges, immunities, and appurtenances, of whatsoever nature, thereunto belonging, unto the said William Donaldson and John W. Scott, or to their legal representatives and to their heirs and assigns, forever.

In testimony whereof I, John Tyler, President of the United States of America, have caused these letters to be made patent and the seal of the General Land Office to be hereuto affixed.

Given under my hand, at the city of Washington, the twenty-second day of August, in the year of our Lord one thousand eight hun-
[L. S.] dred and forty-four, and of the Independence of the United States the sixty-ninth.

260 By the President.

JOHN TYLER.
J. WILLIAMSON,
Recorder of the General Land Office.

The United States of America to all whom these presents shall come, greeting:

Whereas there has been deposited in the General Land Office a certificate of the register of the land office at New Orleans, Louisiana, with a plat of the survey of the tract of land therein mentioned, whereby it appears that by the act of Congress approved on the eighteenth day of April, one thousand eight hundred and fourteen, entitled "An act concerning certificates of confirmation of claims to lands in the State of Louisiana," the claim of Daniel Clark, entered as number one hundred and twenty-seven in the "decisions of the board of commissioners for the eastern district of the Territory of Orleans," has been confirmed, and that the same has been surveyed and designated as section thirty-eight
261 in township eight of range two east, section fifty-one in township eight of range three east, section forty-one in township nine of range three east, and section seven in township ten of range three east, containing together twenty-eight thousand one hundred and seventeen acres and sixty hundredths of an acre (lying east of the Mississippi River) and situated in the southeastern land district, Louisiana:

Now, know ye that the United States of America, in consideration of the premises and in conformity to law, have remised, released, and forever quitclaimed, and by these presents do remise, release, and forever quitclaim, unto the said Daniel Clark, or to his legal representatives, and to his or their heirs, the said land above described, to have and to hold the same, together with all the rights, privileges, immunities, and appurtenances of whatsoever nature thereunto belonging unto the said Daniel Clark, or to his legal representatives, and to his or their heirs and assigns forever.

In testimony whereof I, John Tyler, President of the United
262 States of America, have caused these letters to be made patent and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the city of Washington, the twenty-second day of August, in the year of our Lord one thousand eight hundred and forty-four, and of the Independence of the United States the sixty-ninth.

By the President.

[L. S.] JOHN TYLER.

J. WILLIAMSON,

Recorder of the General Land Office.

263 3rd. Certified copies of documents by the Commissioner of the General Land Office 31st March, 1882, viz: 1°. Letter from the Commissioner, of the General Land Office to the surveyor-general of Mississippi, of February 17th, 1829. 2°. Letter from the Commissioner of the G. L. O. to Hon. R. C. Nicholas, U. S. Senate, of June 17th, 1836. 3°. Letter from the Commissioner of the G. L. O. to the register at New Orleans, La., of June 17th, 1836. 4°. Letter from the Commissioner of the G. L. O. to the Secretary of the Treasury, of April 3rd, 1839. 5°. Letter from the Secretary of the Treasury to the Commissioner of the G. L. O., of May 16th, 1839. 6°. Letter from the Attorney-General U. S. to the Secretary of the Treasury, of May 16th, 1839. 7°. Letter from the Commissioner of the G. L. O. to the Secretary of the Treasury, of October 3rd, 1840. 8° Letter from the register at New Orleans, La., to the Commissioner of the G. L. O., of February 13th, 1841. 9°. Letter from the Commissioner of the G. L. O. to the
264 register at New Orleans, La., June 30th, 1841. 10°. Letter from Isaac T. Preston to the Secretary of the Treasury, of January 1st, 1841. Filed April 8th, 1882, in the case of Alfred Slidell et als. vs. Thomas J. Emler et als. No. 9828 of the docket of this court. Offered in evidence by complainants May 1st, 1882, marked 3rd.

D.

DEPARTMENT OF THE INTERIOR,

GENERAL LAND OFFICE,

Washington, D. C., March 31st, 1882.

I, N. C. McFarland, Commissioner of the General Land Office, do hereby certify that the annexed copies of papers relative to the "Houmas grant" in the State of Louisiana are true and literal exemplifications of the originals as they now appear upon the files or of record in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] (Signed) N. C. McFARLAND,

Commissioner of the General Land Office.

265 FEBRUARY 17*th*, 1829.

J. P. TURNER, Esq., *S. G.*,
Washington, Miss.:

SIR: Your favor of the 14th ult'o, covering a rough plat of the Houmas claim has been received.

The only information in this office and to which I have access in relation to this claim, is 1st, the copy of the application of Maurice Conway to the gov'r gen'l; 2nd, the order of Onzaga to Louis Andry; 3rd, the report of said Andry; 4th, the grant of Bernardo de Galvez to Maurice Conway, dated 21st June, 1777; 5th, copies of the decisions of the commissioners in favor of Wm. Conway, Dan'l Clarke, and William Donaldson and John W. Scott, and a note signed by Thomas B. Robertson, stating that the above decisions had been made before he became a member of the board and expressing his dissent to the same. On an examination of the above papers I am of opinion that the grant made by Galvez on the 21st day of June, 1777, is so vague in its terms, both as to boundary
266 and quantity, that it will be indispensably necessary for the courts of justice to interfere for the purpose of defining and designating both.

The claim set up to all the vacant lands which may be embraced between the northern and southern boundary of the original grant extended in the courses called for to the boundaries of the province, leads to such absurdities that I think it impossible that the courts can sanction it.

If the northern boundary, for instance, of the grant be extended in the course called for, it would cross the Mississippi, agreeably to your plat, below the Iberville, and would strike the western boundary of the then province of Louisiana west of Red River; and the southern boundary of the grant extended in the same way would probably include the lands on Lake Pontchartrain, before it would reach the boundary of the province, and had West Florida been at the date of the grant as it was previously and subsequently, a part of Louisiana, then this grant would
267 have included the whole of West Florida, as it now does a great part of Louisiana, and the whole of Arkansas and Missouri, if the principle contended for be carried to the extent to which it is applicable. The boundaries of the grant must therefore be fixed by the courts, in doing which reference will be had to the general laws of Spain in relation to the dispositions of her domain at the date of the grant; the powers with which the governors of Louisiana were invested by the King of Spain in respect to the granting of lands, and the object and purpose for which this particular grant was made. Under the general laws of Spain the governors had not authority to make grants to the extent claimed under this particular one. It is not known what were the powers of the governors of Louisiana in relation to the disposition of the public lands, as the instructions to O'Reilly have never been published, but from his regulations on the subject
268 it is presumed that they were limited. The object and purpose for which the grant was asked and obtained will, therefore, be the leading consideration on which the courts will probably decide the question, and in so deciding they possibly may limit the grant either to the limits of the survey actually made by Louis Andry, or to the termination of eighty arpens, the usual extent granted, when the front grant was deficient in timber or otherwise, or to the distance of one and a half leagues, as re-

quired in the petition. Should the court assume any of these limits, facts and circumstances may possibly occur in the investigation of the subject that may induce it to extend the back line so as to be equi-distant from every part of the river.

If, therefore, in making your surveys you assume this last limitation, to wit, a league and a half, as the extent of the grant to Maurice Conway, dated the 21st June, 1777, I think that we shall have given full
269 scope for the court to exercise its discretion, and if the grant can be so adjudged as to exceed those limits, then it must extend to the utmost limits of the boundary of Louisiana, as they existed at the date of the grant, and to which the two described lines can be extended.

The decision of the comm's recognizes the Amite as the boundary of of some portion of this grant, but this decision can only be considered as recognizing the validity of the grant as a complete title, and not as going to confirm any other lands than those included within the limits of the original grant.

In laying down the grant and its subdivisions you will designate the boundaries on your plats by black lines as far as the limits of the actual survey was made by Andry, the other lines will be dotted, the confirmed claims interfering with it west of the black lines will be regularly designated by black lines.

Yours, &c.,
(Signed) G. G.

270 GENERAL LAND OFFICE,
June 17th, 1836.

SIR: I have to acknowledge the receipt of your letter of the 16th instant, covering one from J. S. Preston, esq., requesting a patent for the tract of land commonly known as the Houma claim, or, in case a patent should not be issued, that the land officers at New Orleans should be required to withhold from sale the lands within the limits of the claim, and that patents should not be issued for any previous sales within those limits; and have to state that inasmuch as I do not consider that claim as recognized by the United States to the extent claimed before the board of commissioners, this office could not issue a patent therefor, even if the application was accompanied by the patent certificate and approved plat of survey, upon the presentation of which the patents are issued in ordinary cases. As the law does not authorize the sale of any lands, the claim to which was in due time and according to law filed with the com-
271 missioners for the purpose of investigation, until the final action of Congress thereon, I have directed the register of the land office to withhold from entry all the lands within the limits of that claim, as described in the reports of the commissioners, and report a list of all the lands heretofore sold which are included within those lines, in order that patents may not be issued therefor. A copy of my letter to the register is enclosed.

I am, &c.,
(Signed) ETHAN A. BROWN.

Hon. R. C. NICHOLAS,
Senate U. States.

GENERAL LAND OFFICE,
June 17th, 1836.

SIR: It having been represented to this office that entries had been permitted at your office of lands within the limits of the Houmas grant, as claimed before the board of commissioners, I have to advise you that although this office cannot recognize the claim as confirmed under any circumstances to the extent contended for by the parties interested,
272 yet, as the law prohibits the sale of any lands to which a claim was filed in due time, and according to law, with the commissioners for the purpose of being examined, the sale of any portion of the land within the limits claimed at the time of filing the same with the commissioners is unauthorized, and I therefore have to request that you withhold all the lands within the claimed lines from entry. You are also requested to furnish this office as soon as practicable with an abstract showing all the sales heretofore made within those lines, in order that the issuing of patents thereon may be prevented. In case you should deem it necessary, you are requested to procure from the surveyor-general a diagram showing the lands included within the Houmas grant, as claimed before the commissioners; but, to enable him to do so, it will be necessary for you to furnish him with a copy of the report of the commissioners upon the subject.

I am, &c.,
(Signed) ETHAN A. BROWN,
Commissioner.

REGISTER OF THE LAND OFFICE, *New Orleans, La.*

273 GENERAL LAND OFFICE,
April 3rd, 1839.

Hon. LEVI WOODBURY,
Sec'y of the Treasury:

SIR: One hundred and ninety-six certificates of sale were suspended by my late predecessor on the 17th of June, 1836, on the ground that they interfered with a private claim commonly known as the Houmas grant. Prior to that time, in 1829, Commissioner Graham caused the Houma claim to be surveyed as to give a league and a half in depth, and treated the land lying in the rear of the line of said survey as public, and sales were made accordingly. The suspension is resisted by the purchasers.

It will be seen by the report of the solicitor, dated December 2nd, 1837, (Senate Document 197, page 36, of second session 25th Congress), that he is of opinion the sales cannot be defeated by the Houmas claim.

As my predecessors held contradictory opinions on this subject,
274 I have, pursuant to the advice of the Solicitor, to request your instructions on the opinion of the Att'y-Gen'l upon the following questions arising from the facts as stated in the Solicitor's report and said document, to wit: 1st. Should this office issue patents for the sales made by the United States lying without the league and a half of land heretofore surveyed for the Houma claim, or should it cancel them? 2nd. Should it permit any pre-emption or other entry of the same lands?

I enclose a letter of Messrs. King and Wilson, with an endorsement thereon by the Solicitor, and also as having a bearing on the case.

A printed memorial of the representatives of Wade Hampton (144), Senate, 2nd sess. 20th Congress, and the printed document above referred to (197) containing the report of the Solicitor of this office, page 36, as referred to in the Commissioner's letter on page 2.

With great respect, your ob't servant,
(Signed) JAS. WHITCOMB,
Commissioner.

275 TREASURY DEPARTMENT, 16*th May*, 1839.

SIR: I return you the papers received with your letters of the 3rd and 23rd April last, with a copy of a letter from the Attorney-General, to whom the same had been granted for his opinion.

I have to request that you will notify the parties of what is proposed to be done, and in the mean time prepare a report to me on the whole matters, specifying the points on which further legislation is desirable, and I will at the commencement of the next session have the attention of Congress called to the subject.

I am, respectfully, sir, your ob't servant,
(Signed) LEVI WOODBURY,
Sec'y of the Trea'y.

COMMISSIONER OF THE GENERAL LAND-OFFICE.

ATT'Y-GENL'S OFFICE, *May* 16*th*, 1839.

SIR: I have received yours of the 5th and 26th of April last ask-
276 ing my opinion on the two projects referred to me in consequence of communications made to you by the Commissioner of the General Land Office. I have had a full and free conversation with that officer and we concur in the opinion that Congress alone possesses the power to make a fair and just disposition of the projects in controversy; that much public mischief might arise should the executive branch of the Gov't proceed to act at this time, and that Congress should be applied to at an early day in the next session to take such measures as justice to the respective parties may demand. Believing this to be the most correct and judicious course, I herewith return the papers relative to these two cases which were transmitted to me, at the same time assuring you that should you think that the public interest would be promoted by an earlier action on the subject, upon your giving me an intimation to that effect and furnish-
277 ing me again with the papers I will promptly transmit to you such opinions as in my judgment and the law of the respective cases will warrant.

I have the honor to be y'r ob't s'v't,
(Signed) FELIX GRUNDY.

The Hon. SEC'Y OF THE TREASURY.

GENERAL LAND OFFICE, *October* 3*rd*, 1840.

Hon. LEVI WOODBURY,
Secretary of Treasury:

SIR: In my letter to you of the 3rd of April, 1839, I informed you that 196 certificates of sale had been suspended by the late Commissioner,

Mr. Brown, the 17th of June, 1836, on the ground that they interfered with the claim known as the Houmas grant, in the State of Louisiana; that previous to that time Commissioner Graham caused the Houmas claim to be surveyed so as to give a league and a half in depth, and treated the land lying in the rear as public, and surveys and sales were made accordingly.

In that letter your instructions were requested whether this office
278 should issue patents for the land sold without the limits of the league and a half surveyed for the Houmas claim, and should it permit any pre-emption or other entry of the land? The whole subject was referred by you to the Attorney-General, and in his letter of May 16th, 1839, he expressed the opinion that Congress should be applied to at an early day in the then next session to take such measures as justice to the respective parties may demand, but concluded his letter by saying that if the public interest would be promoted by an earlier action on the subject he would, upon request, transmit to you his opinion in the premises. The subject has been before Congress ever since your report upon certain private land claims in Louisiana, dated Feb'y 14th, 1838, and the Committee on Private Land Claims in the Senate reported a bill the 1st June, 1840, limiting and establishing the Houmas grant at two leagues, fronting on the Mississippi and running back for quantity. This must be
279 understood two leagues superficial measure, and is about one-third less in quantity than would be included in the survey as directed by Commissioner Graham. The bill did not pass, but most probably from the want of time, and it furnishes at all events a very clear indication that the claim to any greater extent was deemed unfounded. The purchasers of the back land, situate without the league and a half surveyed for this claim, are desirous that patents should issue to them, and others residing upon different portions of it are anxious that the same should be brought into market as other public lands of the United States.

The opinion of this office against the Houmas grant, at least to any greater extent than the survey authorized by Commissioner Graham, was fully made known in a report of the Solicitor of the 2nd of December, 1837, and which was communicated to Congress in your report of the 14th Feb'y, 1838, and printed in Sen. Doc. 197. There is but
280 little probability that Congress will act upon the subject at an early period, and it is from this consideration that I respectfully communicate this letter and the papers to you for your consideration and instruction in the premises.

It is suggested, however, whether as action in the premises on the part of Congress was omitted at the last session for the want of time, and as but a short time will elapse before the next session, it will not be better to defer any further steps on the matter in the department until further opportunity is afforded for legislation.

I have the honor to be, with great respect, your ob't servant,
(Signed) JAS. WHITCOMB.

LAND OFFICE,
New Orleans, February 13th, 1841.

SIR: An application has been made to me by Mr. A. F. Rightor for three patent certificates in the names of Daniel Clark, Wm. Donaldson,

and J. W. Scott and M. Conway for lands situated in the county of Acadia, and commonly designated as the Houmas claims, the titles
281 of which were confirmed by the board of commissioners as appears in the report of the Secretary of the Treasury, dated January 8th, 1812, under Nos. 127, 133, & 125.

Claims Nos. 127 and 133 are represented on a plat produced to me, which was drawn by H. L. Williams, surveyor-general, La., and by him certified as corresponding with the boundaries described by the commissioners, except that the claims fronting on the Amite River and those fronting on the Mississippi and the back concessions thereto are excluded.

Claim No. 133 being represented on another plat, drawn in 1836 by Andrew McCollam, deputy surveyor, is also certified as correct by the aforesaid surveyor-general.

Having had reference to a letter from the Commissioner to the surveyor-general, Miss., bearing date February 17th, 1829, contained at page 892, in part 2 of Laws, Instructions, and Opinions, and also to another letter from the Commissioner to the register of this office, dated June
282 17th, 1836, I have been led to the opinion that said claims were considered as definitely confirmed by the general department.

Under such circumstances, and considering the importance of the case, I have declined issuing the patent certificates applied for. My refusal having given dis'atisfaction to Mr. Rightor, I beg respectfully that you will take the matter into consideration and furnish me with your instructions how to proceed.

I remain, sir, very respectfully, your obedient servant,
(Signed) TH. GENOIS, *Reg'r.*

JAMES WHITCOMB, Esq.,
Commissioner of the General Land Office,
Washington City, D. C.

GENERAL LAND OFFICE, *June 30th*, 1841.

J. GENOIS, Esq.,
Register, New Orleans, Louisiana:

SIR: In reference to the subject of your letter of the 13th Feb-
283 ruary last, you are requested to defer any action in the way of issuing a patent certificate for the lands "commonly designated as the Houmas claims" until you may be definitely instructed on the subject by the department.

Very respectfully, your ob't servant,
(Signed) JAS. WHITCOMB,
Commissioner.

NEW ORLEANS, *January 1st*, 1841.

DEAR SIR: I was in hopes long ere this to have received the opinion of the solicitor of the General Land Office, ratified by you, on the application of the representatives of William Conway for a patent for the lower confirmation on the Houmas claim, with directions to the register of the land office here to issue the patent certificate. I do hope there will be no further difficulty or contention as to this claim.

I have prepared herewith the project of a law, which, if passed, I think will be satisfactory to those who are opposing the Houmas claim.

284 It is a measure which has been rendered absolutely indispensable by the ignorance and negligence of the land officers here, and without *out* which litigation and uncertainty as to our land titles will be interminable and intolerable, and, being a general law, absolutely necessary for the whole State of Louisiana, and not injurious to the United States, but necessary to their good faith as land traffickers, it can easily be got through Congress.

I have written to Mr. Moore and Mr. Henderson, chairmen of the land committees in the Senate and in the House, on the subject, and am sure they will further the passage of the measure.

I most respectfully urge on your department that the patent to the representatives of Conway, which was expressly ordered by the act of the 18th of April, 1814, may be issued with as little delay as possible.

I am, with great respect, your obedient serv't,

(Signed) ISAAC T. PRESTON.

285 Document certified by F. A. Woolfley, clerk U. S. circuit court eastern district of Louisiana, February 15th, 1882, containing copies of the following, viz: 1°. Plat of claim of Wm. Conway, certified by B. Lafon, February 20th, 1806, in French; printed in Sen. doc. 45, &c., between pp. 6 & 7. 2°. Lafon's proces verbal of survey of Feb'y 20, 1806, in French; printed in Senate doc. 45, &c., pp. 6 & 7. 3°. Petition of Maurice Conway to Unzaga of Sept. 9, 1776, in French; printed in Senate doc. 45, &c., pp. 7 & 8. 4°. Order of survey issued by Unzaga of Sept. 27, 1776, in Spanish; printed in Senate doc. 45, &c., p. 8. 5°. Proces verbal of survey by Don Louis Andry, Oct. 1, 1776, in Spanish; printed in Senat' doc. 45, &c., p. 8 & 9. 6°. Patent issued by Galvez on 21' June, 1777, in Spanish; printed Senate doc. 45, &c., pp. 9 & 10. 7°. Deed of conveyance from Maurice Conway to Wm. Conway of 27' Oct., 1786, in Spanish; printed in Senate doc. 45, &c., p. 10. 8°. Deed of exchange between Pierre Part & Wm. Conway of March 27, 1791, in
286 French; printed in Sen. doc. 45, &c., p. 11. 9°. Decision of the old board of commissioners, No. 125, on the claim of Wm. Conway; printed in Senate doc. 45, &c., p. 5. 10°. Certificate of the register at New Orleans, La., of Sept. 16, 1841; printed in Senate doc. 45, &c., p. 12. Filed March 22d, 1882, in the case of Alfred Slidell et als. vs. Thomas J. Emler et al., No. 9828 of the docket of this court. Offered in evidence by complainants May 1st, 1882, and mentioned as "4th" in the foregoing note of evidence.

(Here follows map marked page 287.)

288 *Survey.*

Land office, southeastern district of Louisiana.

QUARTIER DES HOUMAS.

A la Nouvelle Orléans, le 20 du mois de Février 1806, et la 30me de l'Indépendence des États-Unis Je soussigné Barthelme Lafon, arpenteur deputé, par Isaac Brigs, arpenteur général des terres sud du Tennessee, certifie le présent plan conforme aux arpentages exécutés par Mr. Andry,

arpenteur, en Mars 1804, et à ceux que je fis de la rivière Amite, en Décembre, de l'année 1803, par lesquels il resulte en faveur de Mr. William Conway une terre de 27 arpents de face au fleuve Mississippi rive droite, uartier des Houmas à 22 de distance de la Nouvelle Orléans, limités par deux lignes, dont l'une supérieure court n. 9 degrés 15 ms. E. ayant trois cent cinquante un arpens de profondeur et ataignant sur la rivière Amite, à ¼ de lieu au dessons de Grais Creek, la deuxième inférieure devant courir
n. soixante et dix degrés E. de la boussole pour l'année 1776, et
289 celle de 67° E. pour la présente année, ayant en profondeur quatre cent cinquante cinq arpens, et se terminant au lac Maurepas, borné au sud par le Mississippi, à l'Onest par Daniel Clark, au n. par la rivière Amite, eté l'est, par Simon Lanau, ayant demandé vue des titres qui en constatent la propriété, il m'a été présenté diverses pièces par lesquelles il constate que Mrs. Latille McNemara et Maurice Conway, achetèrent des sauvages Houmas une étendue de terre composée de 96 arpens que Maurice Conway acheta de Latille et Barthelme McNemara, le 4 Janvier 1776, la portion de terre qu'ils avaient en leur part. Que Maurice Conway obtint en concession le 22 Juin 1777, du Comte de Galvez, alors gouverneur en cette provence, tous les derrières de son habitation vactes en suivant les lignes qui formaient alors son habitation, lesquelles courraient l'une n. 50° est, l'autre n. 70° O. que le 27 Octobre 1786, W. Conway acheta de son
oncle Maurice Conway une portion de terre A, B, C, E, d'envi-
290 ron 27 arpens de face avec la profondeur conformement aux titres qui lui furent donnés le 22 Juin, 1777. Que Maurice Conway vendit à Olivier Pollock une portion de sa terre E. F. L. K. qui appartient successivement an Docteur Anderson, dont la sucession le vendit à Belony Meer, et que celui-ci étant mort, cinq arpens et demi de cette terre E. F. I K. furent achetés par son exécuteur testamentaire Pierre Part et que enfin Pierre Part donna ces cinq arpens et demi de face sur quarante de profondeur à W. Conway en échange, d'une autre terre de 20 arpens sur l'autre rive du fleuve par un acte devant le Commandant de Lafourche, en date du 7 Décembre, 1788, de manière que W. Conway se trouvait possesseur en l'année 1804, d'une face A. I. de 32 arpens et demi, dont il vendit dix arpens A. B. C. D. en 1805, à Mr. D. Clark, par cette vente il
ne resterait à W. Conway que 22 arpens et demi de face D. C. N.
291 H. I. mais les arpentages partiels qui furent faits précédemment par son oncle et les ébulés ayant augmentés la face totale qui se trouve dans une ance, son oncle lui ayant vendu avec la condition du plus ou moins et l'ayant borné par les voisins Patrice Conway et Anderson, les quatre arpens et demi de surplus lui appartiennent de droit.

De plus, W. Conway n'ayant acheté de Pierre Part que quarante arpens de profondeur E. F. H. I. et Maurice Conway s'étant réservé les derrières F. G. L. M. W. Conway réclame ces mêmes derrières des cinq arpens et demi et ceux des dix arpens H. L. M. N. comme étant l'héritier de son oncle, ainsi il parait par le plan ci-dessus que W. Conway possède une surface irrégulière de terrain D. C. G. M. L. H. F. E., bornée comme il est ci-dessus spécifié.

En foi de quoi j'ai donné le présent plan et procès-verbal, même jour et an que dessus.

LAFON,
Arpenteur Député.

292 *Petition.*

Señor Gobenrador Général.

Don Mauricio Conway, vecino de esta eumediacion con el debido respeto, à V. S. hago presente, que hallaudome, en los terminos de ir a establecerme pos arreba sobre la tierra que juntamente, con Don Alexandro Latil y con el agrado de V. S. hemos comprado de los Indios Houmas, cuyo terreno se halla enteramenté falto de cercas, y desmontado à á mas de una legna con el fondo, de modo que la cipriera distara de como una legua y media del rio; sin tener yo derecho à ella, por no habersenos concedido, V. S. mas de los quaranta arpanes del fondo ordinario con cuyo cautedad, no peredo. alcanzar los cipres necessarios à la formacion de mis barreras y demas utilidudes de una habitacion, por tanto a V. S. rendedamente suplico se digne en esta atention concederme todo el fondo que habiere vacante tras o al cabo de los suso dicho quaranta arpanes de fondo;
293 por pertenecerme à hora en totalidad la mencion a da tierra, mediante la venta y cesion que pordelante del Escribano Don André Almonaster a quatro de enero del corriente año se me ha hahecho de la porcion ô mitad que correspondia al precitato. Mr. Latil suplicando asimismo à V. S. se sirra commissionar, à Don Luis Andry a que venga a darme posision del expresado frente y fondo poniendo los correspondientes linderos y dandome testimonio del todo para mi gobierno y reghardo; por cuya gracia riviere para siempre reconocido.

Nueva Orleans, 9 de Septiembre de, 1776.

MAURICE CONWAY.

Warrant.

NUEVA ORLEANS, 27 *de Septiembre de*, 1776.

El segundo ayudonte de esto, Plaza Don Luis Andry, pasara à la tierra que expresa esta memorial y dara posesion al suplicante de la que hubiere vacante dispues de los quarenta arpens de profundidad que posee, siguendo la misma division estando vacante y no causando perjuicio a los circum vecinos, para lo que le señalara terminos y linderos, extendiendo
294 a continuacion las diligencias que practicare firmandolas con los susodichos, y me las remitira para proverbe de su tibulo en forma.

UNZAGA.

Survey.

Don Luis Andry, capitan de infanteria y segundo ayudante mayor de la plaza de la Nueva Orleans, comisiado por el sr. gobernador general de esta provincia de la Louisiana, a fines del antecedente memorial y decreto certifico haber pasado oydia nueva del mes de Octobre de 1776, à la tierra de que se trada en los anteriores documentos, situada en el distrito de la Parroguia de la Ascencion o de la Fourche, sobre la margen 6 izquierda del rio Misisipi, como à 22 leguas por arriba de la réferida capital; accompanado de el pretendiente Don Mauricio Conway, y del comandante del mencionado distrito Don Luis Julice à quien euste, por inteligente que es en el idioma de los Indios Houmas y Bayagoulas a que se sirvi-
295 era llamar el Gêfe de ellos nombrado calabe, vendedor del expresado terreno, para que me señalase los terminos que le han de limi-

tar por arriba y por abaxo; loque habiendose efectuado asi, y habiendo concurrido el citado Gefe, me respondio por medio del enunciado interprete y comandante, extenderse el terreno vendido por el, y anteriormente occupado por los Indios desde el limite inferior de Francisco Duhan, por arriba, hasta el de Miguel Chiason, par abaxo, aunque no concuerdan actuamente estosapellidos con los que se hallan asentados en el instrumento de vente, por haber varias veces desde la citida epoca mudado de posedores las insinuadas estancias, cuyo intermedio me di luego, tirando à este efecto por el monte las lineas precisas para cercurarme de su extencion (cuyas lineas se hallan figuradas en el plano o bosquiso de mis operaciones que entregue al referido pretendiente) y halle que
296 cabe noventa y seis arpanes de frente al Rio ensanchandose de ciento y veinte grados hacia su fondo, por su situacion en el recoveco de la encenada derigiendose la liena de ariba, limitrofa con Francisco Duhan, a cincuentá grados del Norte hacia el Este; y la de abaxo con-
7 tigua a Miguel Chaison, à sententa del Norte hacia el Este. Evaguado el me dimiento del antedho frente, procedi à poner el pretendiente en posesion de la profondidad que por el antecedente decreto se le ortorga; a cuyo efecto, haben dome restituido a la linea de arriba que colenda con el predicho Francisco Duhan, reconsci en su presencia los terminos elevados por mi el dia 22 de Déciembre, de 1773, los quales aun existen en la misma situacion, distancia y direcion, ambos de palo de morat; el primero de cinco pies, &c., plantado á 37 toisas y dos, pies de distancia de la
297 margen actual del Rio; y el segundo de 6 pies, &c., plantado a un arpen s'trienta toisas mas por atras hacia el fundo.

Depues sequi a la misma linea y un el enuncia Rumbo de cincuenta grados del N. hacia el O, hasta las quaranta arpanes de profondura, abriendome a dicho efecto un caminito por el monte; á cuyo punto hize elevar un lendero de cepre de 6 p's de largo, &c., y a dos arpanes mas lejos todavia, esto á 42 arpanes del rio puse otro termino equal al que se acaba de referir.

Finalizada esta linea llegue a la de abaxo limitrofa con Miguel Chiasson a quien equalmente llame; y precediendo et medimiento de los siete arpanes que por decreto del 27 de Septiembre de este mismo año se le haconce-
8 dido por el expresado S'r. Gobernador, hice elevar en ella dos terminos de palo de moral, el primero de 4 pies, &c., plantado a viente toisas de distancia de la margen actual del rio; y el segundo a otras viente toisas mas por el fundo; despues de loqual prolegin por el monté
298 (y en la referida direcion de 70 grados del N. hacia el E.) a la misma linea hasta los quaranta arpanes de fondo, a cuyo punto hice plantar un termino de cepre de seis pies de largo, &c., y a dos otros arpanes del rio; hice poner otro lindero (esto es a 42 arpanes del rio) del mismo tamàno que el antecedente, para no deviar el Rumbo y para que todo lo ante explicado conste doy la presente certificacion que ho firmado con el éntresado Don Mauricio Conway y el mencionado comandante y interprete en el asunto, habiendo declarado el xefe Indio Calabe y los dos vecinos colendantes referidos no saber firmar, de todo lo que doy fe en la referida costa al Distrito fha., ut supra.

LUIS ANDRY.
LUIS JUDICE.
MAURICE CONWAY.

Patent.

Don Bernado de Galvez, coronel del battalon de infanteria de la Luisiana, gobernador, intendente é inspector general interino de ella, &c.

299 Vistos los antecedentes diligencias practicadas por el segundo ayudante de esta plaza Capitan Don Luis Andry, sobre la posesion que ha dado ã Don Mauricio Conway en virtud del decreto antecedente de mi anterior de toda la tierra vacante y detras ò a lo esplada de los quaranta primeros que posee sobre noventa y seis arpanes de frente al rio siguiendo la misma dericion de estos y reconociendo estar areglados al
9 orden de agrimensura y a las concesiones de los circunvecinos, sinque à estos seles cause perjuicio alguno ni qua la hayan reclamado, y si bien consentido, segun justifica su asistencia a dhas. operaciones; aprobandolas como los aprobanos, usando de la facultad que el Rey nos tiene conferida otorgamos en su real nombre al referido Don Mauricio Conway la citida tierra detras õal cabo de los quaranta arpanes que contiene śu habitacion en el distrito de la Fourche sobre noventa y seis de frente al rio seguiendo la misma direcion que corre aguellos, para que como proprio disponga de ellos y los usufrutes, reglandose a las mencionadas dili-
300 gencias, y observando las condiciones prevenidas en el reglamento del asunto. Damos la presente firmada de nuestro mano, sellada con el sello de nuestras armas, y refrendada por el infrascrito, secretario de este gobierno, en la Nueva Orleans ã 21 de Junio de 1777.

[L. S.] BERNARDO DE GALVEZ,

Por mandado su senoria José Foucher.

Deed.

Sepan quantos esta carta vieren como yo Don Mauricio Conway vecino de esta ciudad, otorgo que vendo realmente y con efecto a Don Guellermo Conway de este mismo vecindario, una habitacion miapropria, situado en el parage que llama La Fourche compuesta de viente y siete arpanes de tierra de frente, poco mas ô menos, con la profundiadad segun el titulo de concesion que me dio el excelentisimo Señor Conde de Galvez por su decreto de fha. 21 de Junio, 1777, dha. tierra hudando por un lado con tierras de Don Patricio Conway, y por el otro con otras de Monsieur Hen-
10 derson, la misma que me pertenece por habiendo com-
301 prado con mayor porcion de Don Bartholomew McNemara, por escritura otorgada por ante Don Andres Almonaster y Roxas, esco. publico que fue de esta provincia con fha. 4 de Enero, de 1776. Asimismo le vendo en el mismo parage ocho arpanes de tierra de frente y quaranta de fundo, hudando por un lado con tierra de Mr. Equi, y por el otra con otras tierras que pertenecian antiguamente ã Don Patricio Conway; la misma que me pertenece por haberla comprado con mayor porcion de Pedro Landry, de sus dos hijos Pablo y Fermin Landry por escritura otorgada por ante Don Luis Judice comandante, de dicho parage con fha. de 18 de Octobre, del año pasado de 1776; y se los vendo al antedho con todas sus entrados y salidas usos costumbres derechos y servidumbres libres de gravamen ê hipotecas, como lo certifico yo el presente exo., anotador de ellas en precio de seis cientos pesos que he recibido de

contado, y por no serde presente la entrega renuncio la excep-
302 cion de la non numerata pecunia y otorgo formal recibo; mediante
loqual me aparto, y separo del derecho de propriedad, posesion,
util dominio y senorco que à dhos. trenta y cinco arpanes de tierra, habia
y tenia, y todo lo cedo, renuncio y traspaso en el comprador y en quien su
causa y derecho hubriera, para que como suyas proprios los posea, venda,
cambia ò enagene à su volundad en virtud de esta escritura que à su favor
otorgo en sênal de real eutrega, con lo que ha de ser visto haber adquirido
" su posesion sin que necesite de otra prueba de que lo relevo; y
me obligo a la evicion, seguridad y saneamiento de esta venta en todo
forma de derecho, con mis bienes habedos y por haber; doy agui por en-
serta la clausula guarentigia y renuncio los leyes de mi favor con la gen-
eral que le prohibe. Y estando presente al otorgamiento de esta escritura
yo el referido Don Guillermo Conway la excepto a mi favor, re-
303 cibiendo, comprado dhos. treinta y cinco arpanes de tierra en la can-
didad y conformidad que me han vendidos; de ellos me doy por
entregado á mi voluntad y otorgo formal recibo. En cuyo testimonio es
fha. la carta en la ciudad de la Nueva Orleans à 27 Octobre, 1786. Yo
el escribano doy fé conozco á los otorgantes 9 lo firmaron siendo testigos
Don José Andriano de la Place, Don Luis Lalande Depremont, y Don
Solomon Malines, vecinos de este ciudad presentes.

MAURICE CONWAY.
WILLIAM CONWAY.

Ante mi: FERNANDO RODRIGUES,
Escrivano Publico.

Concuerda con su original que paso por ante Don Fernando Rodrigues, escrivano publico, que fue de esta ciudad y queda en mi poder y archivo à que me remito; y de pedimento de parte doy el presente en la Nueva Orleans á quinze de Decembre, de 1797.

PEDRO PEDESCLAUX, [L. S.]
Exo. Publico.

Deed.

L'an mil sept cent quatre vingt-onze le 27ième jour du mois de
304 Mars, à deux heures de relevé pardevant nous Louis Judice, com-
mandant civil et militaire et juge au district de la Fourche de Cheti-
" machas, paroisse de l'Ascension, est comparu Messrs. William Con-
way, habitant de ce district, et Pierre Part, habitant au district de Cabahanon, ce lesquels nous ont dit et déclaré être convenu ensemble de l'échange que suit, savoir que Mr. Guillaume Conway cède dès ce jour d'hui au sieur Pierre Part une terre de vingt arpens de face sur quarante de profondeur située en ce district sur la rive gauche du fleuve à environ 24 lieues de la Nouvelle Orléans, attenant du côté d'en haut à une terre vacante et du côté d'en bas anciennement au sieur Fermen Broussard, et actuellement au sieur Jacques Ferriot, laquelle terre a été concédée par Mr. Don Louis de Unzaga y Amezaga au sieur Grégoire French, suivant les titres de concession datés de la Nouvelle Orléans, le 3 de Novembre
1765; et comme ledit sieur Grégoire French, est mort restant débi-
305 teur à Mr. Mather, mondit sieur, par décret de Mr. de Miro, briga-
dier des armées de S. M., gouverneur et intendant général de cette

province, a été mis pour payement en possession des susdits vingt arpens de face sur la profondeur ordinaire, ce qui est constaté par une lettre de mondit sieur le gouverneur à nous adressée en date de la Nouvelle Orléans du 17 Mars 1791, et mondit sieur Guillaume Conway, acquit ladite terre de
13 mondit sieur Mather, ainsi qu'il est aussi constaté par ladite lettre de mondit sieur le gouverneur-général de cette colonie. Et mondit sieur Pierre Part cède en échange des susdits vingt arpens de terre de face une terre ou habitation de cinq arpens et demi de face sur la profondeur de quarante arpens situé en ce district sur la rive gauche du fleuve atenant à mondit sieur Guillaume Conway, du côté d'en haut et du côté d'en bas du sieur Joseph Richard, laquelle terre lui appartient pour l'avoir
306 acquisé de la succession de feu Joaquim Mire (dit Belony), par acte d'adjudication passé pardevant nous à la porte de l'église paroissiale de ce lieu, le dimanche 7eme jour du mois de Décembre 1788, mesdits sieurs échangeurs ci-présents acceptent le présent acte en tout son contenue et par celui reconnaise avoir fait l'échange ci-dessus mentionné, savoir: Mr. Guillaume Conway donne au sieur Pierre Part vingt arpens de terre de face, et Mr. Pierre Part donne au sieur Guillaume Conway cinq arpens et demi de face l'un et l'autre en échange; mesdits sieurs échangeurs reconnaissent l'un et l'autre être en possession desdites terres, dont ils sont content et satisfait, et s'accordent réciproquement quittance au moyen de quoi mesdits sieurs promettent faire jouir et disposer en toute propriété dès maintenant et a toujours des susdites terres échangées
14 comme d'unbien à eux appartenant alliènant et vendant à leur libre volonté lesdites terres échangées en leur particulier
307 comme d'un bien à eux appartenant; car ainsi ont promis et s'obligent. Fait et passé en présence des Messieurs Michel Doffy et Firmin Landry, habitants de ce district, témoins à ce requis qui ont signé avec les parties contractantes et nous commandant à la Fourche de Chétimachas les jours, mois et au que dessus. Ainsi, signé à la minute.

GUILLAUME CONWAY,
PIERRE PART,
MICHEL DUFFY,
FIRMIN LANDRY, ET
LOUIS JUDICE.

Délivré sa présente copie conforme à son original resté en nos archives du conté d'Arcadie le 14eme jour du mois, de Fevrier, 1806, et la 30me année de l'Indépendence des Etats Unis.

MICHEL CANTRELLE.

No. 125. W. Conway.

MONDAY, 3*d March*, 1806.

William Conway, af'd, claims another tract of land situated in the
couuty of Acadia, af'd, at a place called Houmas, on the left bank
308 of the Mississippi, containing twenty-two and a half arpens in front, with an opening towards the rear of sixty degrees, forty-five minutes, the upper line running N. 9° 15″ E. three hundred and fifty-one arpens, and the lower line directed N. 70° E., and measuring four hundred and fifty-five arpens, bounded on the upper side by Daniel Clark's land and on the lower side by land of Simon Laneau; it appear-

ing to the board from a patent or complete title exhibited that seventeen arpens of front were, together with a greater quantity granted by the Spanish Government to Maurice Conway 21 June, 1777; and it appearing that the five and a half arpens of front remaining of the land aforesaid were purchased by Pierre Part at the public sale of the estate of the late Joachim Mire (alias Belony), on the 7th day of December, 1788; and it further appearing to the board from two several instruments of conveyance offered in testimony that the two tracts of land, af'd, have been conveyed to the present claimant, the board do hereby confirm his claim, af'd.

REGISTER'S OFFICE, NEW ORLEANS.

309 I, Joseph Genois, register of the land office at New Orleans, do hereby certify that the document just above written is a true copy of the decision of the late board of commissioners for the eastern district of the late Territory of Orleans on the claim of Wm. Conway, No. 125, as taken from the "Decisions on land claims" of said board on record in this office.

I do further certify that the foregoing plat of survey and other written instruments produced as evidence offered in support of said claim are true copies taken from one of the records now in my possession, and forming part of the archives of this office.

In faith whereof I hereunto subscribe my name this 16th day of September, 1841.

J'H. GENOIS, *Reg'r.*

Circuit Court of the United States, eastern district of Louisiana.

CLERK'S OFFICE.

I, Francis A. Woolfley, clerk of the said court, do hereby certify that the twenty-four (24) foregoing pages of foolscap, and the plat of the claim of Wm. Conway, preceding them, contain and form true and cor-
310 rect copies of the originals in English, French, and Spanish on file in this office as part of the record in the suit in equity of The United States vs. Daniel Clark et als., No. 1814 of the docket of said court.

Witness my hand and the seal of said court at New Orleans, La., this 15th day of February, 1882.

[SEAL.] (Signed) F. A. WOOLFLEY, *Clerk.*

311 Letter from the Secretary of the Treasury to the Commissioner of the General Land Office, of August 12th, 1844, being final decision in favor of Houmas grant; printed in Senate document 45, &c.; pp. 126 to 131. Filed April 17th, 1882, in the case of Alfred Slidell et als. vs. Thomas J. Emler et als, No. 9828 of the docket of this court. Offered in evidence by complainants, May 1st, 1882, and marked 5th.

No. 64.

DEPARTMENT OF THE TREASURY,
August 12, 1844.

From the express stipulations and legal consequences of the treaty of cession of Louisiana to the United States by France, it followed that all private rights and interest in lands within the ceded territory, whether in-

ceptive or consummated, legal or equitable, perfected or not perfected, derived under the laws and usages of the former sovereigns, who had from time to time possessed the Territory of Louisiana, were to remain
312 valid and secure under the Government of the United States, and that the residue of the lands within the ceded territory, belonged to the public domain of the United States.

The proper use of the public lands, and good faith due to the holders of private rights and interests in the lands originated before the cession, required that these private rights and interests should be correctly ascertained, defined, and demarked on the plats in the offices of the surveyors, and in the General Land Office of the United States. Such ascertainment and demarkation was essential to the system which had been adopted by the United States for selling and disposing of the public lands by actual demarkations by meridians, ranges, townships, sections, quarter sections, and fractional sections, before they were offered at public sale, or made liable to private entry at the respective land offices.

The system of the United States was to dispose of their lands to individuals and corporate bodies, by visible abuttals and boundaries, by
313 clear and undisputed titles and tenures; therefore it was necessary that the private rights and interests derived under the laws and usages of the former sovereigns of Louisiana, should be connected with the system of the United States by accurate delineations thereof on the maps to be made by the surveyors, and deposited in the respective offices of the surveyors-general, and in the General Land Office, at the seat of the General Government of the United States. The systems, laws, and usages of France and Spain, for disposing of their public lands in Louisiana, whilst they respectively possessed that territory, differed so widely from that of the United States, that it was necessary that the private claims to land derived under the governments of these sovereignties, should be surveyed and defined, where that had not been done, and that, in some instances, those which had been defined by surveys before the cession, should be resurveyed by the officers of the United States, in order to delineate them on the maps, and thereby prevent confusion and conflicts. In acting
314 upon the lands derived by the cession of Louisiana, the United States, in reference to those private rights and interests originated before the cession, adopted the plan, that those, as well as future rights, should all be held under grants by letters patent issuing from their General Land Office.

To ascertain the private rights and interests to lands in Louisiana, originated before the session, to have them connected with the townships, sections, quarter sections, and fractions of sections, and accurately delineated on the maps in the respective land offices of the several districts and in the General Land Office, and to cause proper grants to be issued from the General Land Office for those private rights and interests so originated before the cession to the United States, the Congress passed two acts, the one entitled "An act for ascertaining and adjusting the titles and claims to land within the Territory of Orleans, and the district of Louisiana," approved March 2nd, 1805 (3 vol. Laws U. S., chap. 440, p. 652);
315 the other entitled "An act respecting claims to land in the Territories of Orleans and Louisiana" (4th vol. Laws U. S., chap. 91, p. 111).

The first of these acts makes recognition of three descriptions of claims under the Spanish and French laws, customs, and usages before the cession: 1st, incomplete claims by duly registered warrant or order of survey; 2nd, claims by actual settlement on a tract of land by permission of the proper Spanish officers, and in conformity to the laws, usages, and customs of the Spanish Government; 3rd, claims by a French or Spanish grant made and completed legally before the 1st day of October, 1800. All such claims were required to be made known in writing to the register or recorder, appointed by the President of the United States in each district.

By that act of 1805 two persons were to be appointed by the President of the United States for each district, who, together with the register or recorder, were to be commissioners within their respective districts for the purpose of acertaining the rights of persons claiming under any
316 French or Spanish grant completed as aforementioned, or under any warrant or order of survey as aforementioned, or under any settlement right as aforementioned.

The commissioners were authorized to have access to the public records, to take transcripts of all evidences of claims to land, either completed or incomplete, which should be found of record, to hear and determine in a summary way upon all claims to land according to justice and equity which were filed with the register or recorder by the claimants or found upon the public records; they were authorized to summon witnesses before them; the Secretary of the Treasury was authorized to employ agents for the Government to appear before the commissioners to investigate the claims and to oppose all such as the agents should deem fraudulent and unfounded; the said boards of commissioners were authorized to appoint a clerk to record their decisions. The commisioners were required to transmit to the Secretary of the Treasury a full report of all the claims filed and rejected by them, with the evidence and their remarks;
317 also a full report of all the decisions in favor of the claimants to be laid before Congress for their determination thereon. The books and papers on the dissolution of the board of commissioners were required to be deposited with the respective registers of the land office or recorder of the land titles of the district.

The clerk was required to prepare two transcripts of all the decisions made by the commissioners in favor of the claimants, and likewise of the claims rejected, with the evidence, to be signed by a majority of the commissioners, whereof one to be transmitted to the surveyor-general of the district and the other to the Secretary of the Treasury. By the act of 1807, before referred to, some alterations of the law of 1805, as to settlements and dates, were made.

By the 4th section of that act the decisions of the commissioners in favor of claimants of tracts, respectively, not exceeding one league square, are declared final against the United States. Decisions upon claims exceeding a league square, made in favor of the claimants, were not
318 final against the United States, but subject to the determination of the Congress thereon.

The 6th section of the act required that the commissioners should transmit to the Secretary of the Treasury, and to the surveyor-general, transcripts of the final decisions made in favor of claimants by virtue of that

act; that they should deliver to the party a certificate stating the circumstances, and that he is entitled to a grant for the tract of land therein designated, which certificate was to be filed with the proper register or recorder.

A plat of the land being filed with the register or recorder (by the party), or transmitted by the surveyor-general, the register or recorder was required to issue a certificate to the party, which certificate, being transmitted to the Secretary of the Treasury, shall entitle the party to a patent.

The 7th section enacts that the tracts of land thus granted by the commissioners shall be surveyed at the expense of the parties, under the direction of the surveyor-general, in all cases where an authenticated plat of the land, as surveyed under the authority of the officer acting
319 as surveyor-general under the French, Spanish, or American Government, respectively, during the time either of those governments had actual posession of said territory, shall not have been filed with the proper register or recorder, or shall not appear on the public records of the said territories of Orleans and Louisiana.

The commissioners were authorized also, whenever they should deem it necessary, to direct the surveyor-general to cause any tract of land already duly surveyed to be resurveyed at the expense of the United States. And the surveyor-general was directed to transmit general and particular plats of the tracts thus surveyed to the proper register or recorder, and also copies of said plats to the Secretary of the Treasury.

The 8th section of the said act of 1807 enacts that the commissioners shall report to the Secretary of the Treasury their opinion on all claims which they shall not have finally confirmed, by the 4th section of that act, the claims in said report to be arranged into three general classes: 1st. Claims which in their opinion ought to be confirmed in conformity
320 with the provisions of the acts of Congress for ascertaining and adjusting the titles and claims to land within the territories of Orleans and Louisiana. 2nd. Claims which, although not embraced by the provisions of said acts, ought, nevertheless, in the opinion of the commissioners, to be confirmed, in conformity with the laws and usages and customs of the Spanish government. 3rd. Claims which are neither embraced by the provisions of those acts, nor ought, in the opinion of the commissioners, to be confirmed in conformity with the laws, usages, and customs of the Spanish Government. That section further provides, the said report of the commissioners shall be by the Secretary of the Treasury laid before Congress for their final determination thereon. Such were the measures adopted by Congress preparatory to the ascertaining of the private rights and interests to lands which came under the guaranty of the treaty between the United States and France for the cession of the Territory of Louisiana to the United States, thereby to confirm those private rights
321 to lands, and to ascertain the residuum which properly belonged to the United States as their public domain.

It is to be observed that the proceedings of the commissioners were had for the purpose of deciding between the Government of the United States and individual claimants—not between individuals and individuals; that the claims which were properly and justly derived under the laws, customs, and usages of France and Spain, or of either, antecedent to the cession by France to the United States, were claims demanding the respect

and confirmation of the United States as good and valid, held by the individuals as matters of right under the solemn guaranty of the treaty, and not as matters of mere courtesy and concession from the Government of the United States.

In pursuance of the enactions of the said acts of 1805 and of 1807, the commissioners performed the duties required of them. Their reports were made to Mr. Gallatin, then Secretary of the Treasury, and by him, on the 8th of January, 1812, communicated to the Congress of the United States.

322 In consequence of the said reports of the commissioners so communicated to the Congress, they enacted on the 14th day of April, 1814, an act entitled "An act for the final adjustment of land titles in the State of Louisiana and Territory of Missouri" (4th vol. Laws U. S., c. 640, p. 680). By the first section of that act, it was, amongst other things, enacted that "in every case where it shall appear by the said report of the commissioners, register, or recorder that the concession, warrant, or order of survey under which the claim is made, contains a special location or had been actually located or surveyed within the late Territory of Orleans before the 20th of December, 1803, by a surveyor duly authorized by the government making such grant, such persons shall be, and they are hereby, confirmed in their claims; provided, that no claim shall be confirmed by this section which shall have been adjudged by either of the boards of commissioners or a register or receiver of public moneys, or a recorder acting as such, to be antedated or otherwise fraudulent, nor any claim
323 to a greater quantity of land than the number of acres contained in one league square," &c.

The 3rd and 4th sections of the act provide for surveys where necessary; and on the return of the plat of survey, or where an order of survey is not necessary, for a certificate to be made by the register or recorder, whereon a patent shall be granted, &c.

By another act entitled "An act concerning certificates of confirmation of claims to lands in the State of Louisiana, approved April 8th, 1814 (4 vol. Laws U. S., c. 681, p. 710), it is provided that in all cases where certificates of confirmation to lands lying in either of the land districts of Louisiana have been issued, agreeably with the provisions of the act entitled "An act respecting claims to land in the territories of Orleans and Louisiana," passed the 3rd of March, 1807, "and on claims which are included in the transcript of decisions made in favor of claimants, and transmitted to the Secretary of the Treasury, the said certificates shall in every case where the lands have not been already surveyed according to law be by the said registers delivered to the principal deputy sur-
324 veyor of the district," "whose duty it shall be, under the direction," &c., "to survey the land accurately at the expense of the United States, according to the said certificates of confirmation and description, and make general and particular plats thereof, which he shall return to the office of the proper register, together with the original certificate; and it shall be the further duty of the said surveyor to make a like return of the plats to the Commissioner of the General Land Office."

The 2nd section provides, "that so soon as the said tracts of land shall have been thus surveyed, and the surveys returned to the proper register, together with the original certificates of the commissioners, it shall be the

duty of the said register to issue certificates in favor of the claimants entitled thereto, which he shall transmit to the Commissioner of the General Land Office," and if it shall appear "that the certificates have been fairly obtained, and correspond with the transcript heretofore transmitted to the Secretary of the Treasury, and the plats returned by the surveyors, 325 patents shall be granted in like manner as is provided by law," &c.

By the act of 12th April, 1814, the adjudication of the commissioners in favor of claimants for tracts not exceeding in quantity one league square were confirmed by the Congress, and patents therefor were directed to be issued from the General Land Office.

By the act of 18th April, 1814, the decisions of the commissioners in favor of claimants for tracts of land exceeding the quantity of acres of one league square were likewise confirmed, and patents ordered to be issued from the General Land Office, to be delivered to such claimants respectively.

By the force and effect of the two acts of Congress of 12th April and 18th April, 1814, all the decisions of the commissioners, made and reported in favor of the claimants, under the acts of 1805 and of 1807, and so laid before the Congress of the United States, as well in respect of claims not exceeding as in respect of claims exceeding the quantity of one league square, have been confirmed; and patents are ordered according to the decisions of the commissioners in favor of the claimants, for the lands 326 described in the certificates of the commissioners, and the surveys corresponding therewith.

The application made for patents, the one by the heirs of Wade Hampton, upon confirmation of the claim of Daniel Clark by the commissioners on certificate No. 127; the other, on the confirmation by the commissioners of the claim of William Donaldson and John W. Scott, certificate No. 133, are such as ought to be granted according to the terms and provisions of the act of 18th April, 1814.

The confirmation of the claims of Daniel Clark, certificate No. 127; of Donaldson and Scott, No. 133; and of Conway, No. 125, by the commissioners, render it proper that those persons who have been permitted, contrary to the prohibitions of the law of 3rd March, 1811, to enter certain tracts within the boundaries of the said Spanish grants, should have a return of the moneys by them respectively paid at the land office, according to the principles of the opinion heretofore given by me, upon the acts of the Congress of the United States of 12th January, 1825, and of 25th February, 1825 (vol. 7, Laws U. S., pp. 334 and 350).

327 With great respect, yours, &c.,

GEORGE M. BIBB,

Secretary of the Department of the Treasury.

Hon. THOMAS H. BLAKE,

Commissioner of the General Land Office:

I do solemnly swear that the above and foregoing fifteen foolscap pages and this page contain a true and exact copy of a printed document, No. 64, as found on pp. 126 to 131 inclusive, of Senate Document 45, 28th Congress, 2nd session; said copy having been made by me and carefully compared with the printed original.

(Signed) W. H. WRIGHT.

Subscribed and sworn before me, April 17th, 1882.
(Signed) T. V. COUPLAND,
Commissioner United States Circuit Court,
Eastern District of Louisiana.

328 Original letter from the Commissioner of the General Land Office to J. L. Bradford, of February 25th, 1882, stating what documents he could not furnish copies of, &c. Filed April 17th, 1882, in the case of Alfred Slidell et als. vs. Thomas J. Emler et al., No. 9828 of the docket of this court. Offered in evidence by complainants May 1, 1882, and mentioned as "6th" in the foregoing note of evidence.

[Refer in reply to this, initial "D."]

DEPARTMENT OF THE INTERIOR,
Washington, D. C., Feb'y 25, 1882.

JAMES L. BRADFORD, Esq.,
New Orleans, La.:

SIR: In compliance with your request of the 14th inst., I transmit herewith certified copies of papers concerning the Houmas Grant in Louisiana, as follows, viz:

1. Copy of letter from Louis Palms, former register of the district land office, dated November 15, 1858, transmitting patent certificate No. 125, and tracing of a diagram and descriptive notes in the William Con-
329 way portion of said grant.

2. Copy of patent certificate No. 125, dated Nov'r 15th, 1858, and transmitted here, as above stated.

3. Copy of the aforesaid diagram and descriptive notes.

4. Copy of a letter addressed to this office Nov. 17, 1858, calling the case up for patenting by John Slidell.

You will observe that no papers were furnished by Mr. Slidell, and his application for a patent seems to have been based upon the register's action of Nov. 15, '58.

I find no original plat of survey on file here corresponding with the tracing furnished by Register Palms. This, however, was undoubtedly a true copy of the original plat on file in the surveyor-general's office of Louisiana at the date indicated in the certificate appended to the tracing by Wm. J. McCulloh.

The legal fee for the copies herewith, under seal, is $5.75; the
330 receipt of which from R. J. Bradford, esq., is hereby acknowledged.

Respectfully,
(Signed) N. C. McFARFAND,
Commissioner.

Copy of letter from the Comm'r of the General Land Office to the surveyor-general of La., of August 17th, 1844. Filed March 22d, 1882, in the case of Alfred Slidell et als. vs. Thomas J. Emler et al., No. 9828 of the docket of this court. Offered in evidence by complainants May 1st, 1882, and mentioned as "7th" in the foregoing note of evidence:

GENERAL LAND OFFICE,
August 17th, 1844.

SIR: The Secretary of the Treasury decided, on the 12th instant, that patents shall issue for the following claims, viz: For that of William Donaldson and John W. Scott, No. 133, of confirmations by the old board of commissioners of the eastern district of Orleans Territory, sur-
331 vey approved by the surveyor-general 6th July, 1841; that of Daniel Clark, No. 127, of confirmations by the same board, survey approved by surveyor-general 6th July, 1841, and that of William Conway, No. 135 of same confirmations, survey approved by surveyor-general 6th May, 1836. In order that the sales which interfere with those claims may be finally disposed of, you are requested to forward to this office, as soon as possible, diagrams showing the connection of the lines of the surveys of the aforementioned claims with the lines of the public surveys and the areas of the fractions bordering on those claims.

Very respectfully, your ob't serv't,

THOS. H. BLAKE,
Commissioner.

F. D. NEWCOMB, Esq.,
Sur. Gen'l Baton Rouge, La.

U. S. SURVEYOR-GENERAL'S OFFICE,
DISTRICT OF LOUISIANA,
New Orleans, February 10th, 1882.

I hereby certify that the above and foregoing is a true and correct copy of the original.

332 Copy of letter from the Comm'r of the General Land Office to the register at New Orleans, La., of July 9th, 1878, refusing to reinstate entry of John Sides. Filed March 8th, 1882, in the case of Alfred Slidell et als. vs. Thomas J. Emler et al., No. 9828 of the docket of this court. Offered in evidence by complainants May 1st, 1882, and mentioned as "8th" in the foregoing note of evidence.

135–520.] [Refer in reply to this, initial "G."] [F. W. H., D. K. S.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., July 9th, 1878.

REGISTER & RECEIVER, *New Orleans, La.:*

GENTLEMEN: E. R. Mason, esq., as attorney for the claimant, has made application for the reinstatement of the cash entry No. 207 of John Sides, made May 27th, 1831, on lot No. 1, sec. 21, T. 9 S., R. 2 E., which was cancelled by this office by letter of Sept. 18, 1844, for the rea-
333 son that said land lay within the supposed limits of the Houmas claim.

The entry in question was made under the pre-emption act of May 29th, 1830, and by instructions from this office of June 10, 1830, the proof taken in support of this claim was retained in the office of the register.

The act of March 3d, 1881 (Statutes, vol. 2, page 660), 6th section, provides that "until after the final decision of Congress thereon, no tract of

land shall be offered for sale the claim to which has been due in time and according to law presented to the register of the land office * * * for purpose of being investigated by the commissioners appointed for the purpose," &c.

By letter of February 17th, 1829, to the surveyor-general, Commissioner Graham limited the survey of the Houmas claim to a certain boundary, and a number of entries, including the one in question, were allowed by the local officers.

334 June 17th, 1836, Commissioner Brown advised the local officers that "the sale of any portion of the land within the limits claimed at the time of the filing of the same with the commissioners is unauthorized."

August 12, 1844, the Hon. Secretary of the Treasury, Geo. M. Bibb, decided that patents should issue for the full extent of the Houmas claim, and patents were accordingly issued Aug. 22d, 1844.

Sept. 18, 1844, the said entry No. 207, and all other entries covering lands within said Houmas claim, were cancelled, and the local officers were instructed to notify the parties in interest to apply for the return of their purchase-money.

After the passage of various acts of Congress relating to these lands, this office, under date of June 22d, 1877, decided that certain land to the extent of eighty arpents in depth from the Mississippi River was covered by a complete Spanish patented grant, and "that all the land

335 claimed back of the double concession or eighty arpents in depth, not otherwise disposed of, is public land of the United States, &c."

May 4, 1878, the Hon. Secretary of the Interior affirmed said decision, except that the limits of the grant were held to cover an extent of forty-two arpents in depth from the river, and all outside of these limits were held to be public lands.

May 9, 1878, the Hon. Secretary of the Interior directed this office to take no definite action in this class of cases pending the action in the premises, and on May 23, 1878, the Secretary modified his instructions in so far that each case in which a reinstatement was demanded should be examined and decided on its merits, etc.

In this case I find:

1st. That the entry was allowed under instructions issued under act of May 29, 1830, and that the proof was retained at the local office, and therefore not subject to inspection by this office.

336 2nd. The land was certainly reserved under act of 1811 as a part of the Houmas claim at the date of entry, May 27, 1831.

3d. The entry was duly cancelled under the ruling of Sept. 18, 1844, that it and all similar entries were void.

4th. This office is satisfied that the notice of cancellation was sufficient, as many claimants whose entries were cancelled at the same time have applied for the return of their purchase-money.

All action affecting the Houmas claim and claims conflicting therewith must, at the time, have been notorious. I refer in this connection to Senate Document 45, 28th Congress, 2d session.

Prior to the year 1850 the return of the purchase-money on cancelled entries was made by the receiver at the local office, and owing to the fact that the records of the local office were lost or destroyed during

the war of the rebellion it is difficult to determine whether the
337 purchase-money in this and similar cases has been returned or not.

It is claimed that said entry was confirmed by the act of July 2d, 1836 (Stats., vol. 5, page 73), but this act has reference to public lands and not to reserved lands. It must be presumed that if it could have been interpreted to cover cases like this one under consideration, Commissioner Blake would have given it such construction, and not have cancelled the entry eight years after the passage of the act. These entries were not allowed under instructions "sent to the register and receiver from the Treasury Department," as provided in the 2d section of said act. The act of March 3, 1811, prohibited such entries, and the only instructions issued which in any manner, at the date of the entries, could be construed as holding the land entered as public lands, were the instructions issued to the surveyor-general February 17, 1829, by Commissioner Graham, limiting the extent of the survey of the Houmas claim.

In this case it is held by this office:

338 1st. That the land in question was in a state of reservation from the date of the act of March 3, 1811, to the final action of Congress June 21, 1860, and therefore not subject to disposal of any kind. In this connection I refer to my decision of June 22, 1877, in the Houmas case, wherein I used the following language: "I am of the opinion that patent cannot issue for this claim under the act of June 2, 1858, and that the repealing act of June 21, 1860, was such final action by Congress upon the Houmas grant as was contemplated by the act of March 3d, 1 11."

2nd. The cancellation was made under the rules and regulations of the office then, Sept. 18, 1844, in force.

3d. It is believed that the purchase-money in this case may have been refunded, but owing to the destruction or loss of the records no proof of such repayment can be found.

For these reasons this office will decline to reinstate said entry
339 and issue a patent thereon in favor of Mr. Sides.

Cases of this character are not proper ones for submission to the board of equitable adjudication for confirmation for the reason that they were illegal in their inception under the act of March 3, 1811, and the entries were regularly cancelled prior to the final action of Congress on the Houmas claim (June 21, 1860), which rendered the land subject to disposal as public land.

Advise the parties in interest of this decision, and allow sixty days from the date of your notice for appeal. The parties appealing must indicate the points of exception to the rulings herein made. Notify this office of the action taken.

Respectfully,

(Signed) J. A. WILLIAMS,
Commissioner.

I hereby certify the foregoing 10 pages to be a correct copy of the original letter from the Gen'l Land Office, dated G, July 9, 1878, on file and of record in this office.

New Orleans, La., March 8, 1882.

(Signed) GEO. BALDY,
Register U. S. Land Office.

340 Copy of letter of J. L. Bradford to the Comm'r of the General Land Office, of March 26th, 1882, applying for certain documents, &c. Filed April 17th, 1882, in the case of Alfred Slidell & al. vs. Thomas J. Emler et al. No. 9828 of the docket of this court. Offered in evidence by complainants May 1st, 1882, and mentioned in the foregoing note of evidence as 9th.

44 NATCHEZ ST.,
New Orleans, La., March 26, 1882.

Hon. N. C. MCFARLAND,
Commissioner General Land Office, Washington, D. C.:

SIR: I desire to obtain certified copies of the following documents to be filed in evidence in the suit of Alfred Slidell et als. vs. Leon Fremaux, register of the State land office of Louisiana, No. 9684 of the docket of the circuit court of the United States, 5th circuit and eastern district of Louisiana, and being a suit in equity to test the validity of the
341 Houmas grant, and to restrain the State from disposing of any of the lands in the Wm. Conway division thereof under the claim of title thereto by virtue of the provisions of the swamp-land grant of March 2, 1849:

1st. Comm'r to Jas. P. Turner, of 17th Feb'ry, 1829 (Sec. Doc. 45, p. 26 & 27, L. O. & I., part 2, No. 879).

2nd. Comm'r to R. C. Nicholas, of 17th June, 1836 (Sen. Doc. 45, p. 28).

3rd. Comm'r to register at N. O., La., of 17th June, 1836 (Sen. Doc. 45, p. 28).

4th. Comm'r to Sec. of Treas., 3d April, 1839, stating status of sales, &c., under Houmas grant (Sen. Doc. 45, p. 49).

5th. Sec'y of Treas. to Comm'r, of 16' May, 1839, enclosing letter of Att'y-Gen'l of same date (Sen. Doc. 45, p. 49).

6th. Att'y-Gen'l to Sec. of Treas., of 16th May, 1839, advising that Congress only could settle Houmas grant (Sen. Doc. 45, p. 49).

7th. Comm'r to Sec. of Treas., of 3d October, 1840, asking instructions about Houmas grant (Sen. Doc. 45, p. 53).

8th. Sec'y of Treas. to Comm'r, of 31' Oct., 1840, saying do nothing in Houmas grant till Congress acts (Sen. Doc. 45, p. 54).

9th. Register at N. O. to Comm'r, of 13th Feb'y, 1841, saying why he refused certificate of Conway claim (Sen. Doc. 45, p. 54 & 55).

342 10th. Comm'r to register at N. O., of 30th June, 1841, telling him to defer action and await instructions. (Sen. Doc. 45, p. 55.)

11th. Application of Isaac T. Preston to Comm'r, of 1842, for patent on Wm. Conway. (Sen. Doc. 45, p. 89, No. 26.)

12th. Plat of Wm. Conway as surveyed by E. D. Richardson in Oct., 1840, and 1841, described as E. No. 3 in. (Sen. Doc. 45, p. 89, No. 26.)

13th. Opinion of Chas. Hopkins, sol'r G. L. O., of 30th Sept., 1841, on the Houmas grant. (Sen. Doc. 45, p. 85 to 89.)

14th. Comm'r to Sec'y of Treas., 14 Feb'y, 1842, asking instructions about the Houmas grant. (Sen. Doc. 45, p. 89 to 91.)

15th. Sec'y of Treas. to Comm'r, of 2d August, 1842, asking "history of facts" in the Houmas grant. (Sen. Doc. 45, p. 94, No. 28.)

16th. Att'y-Gen'l to , of 25th July, 1842, giving opinion on Houmas grant. (Sen. Doc't 45, p. 94, No. 28.)

17th. Comm'r to Sec'y of Treas, of 9 Aug., 1842, giving "statement of facts" in Houmas grant. (Sen. Doc. 45, p. 94 to 99.)

18th. Att'y-Gen'l to Comm'r, of 16 Aug., 1842, asking practice in issuing patents on lands claims. (Sen. Doc. 45, p. 101.)

343 19th. Comm'r to Att'y-Gen'l, of 16th Aug., 1842, practice in issuing patents, &c. (Sen. Doc. 45, p. 101.)

20th. Att'y-Gen'l to Sec'y of Treas., 2 Sept., 1842, saying sales in Houmas were void under act of 1811. (Sen. Doc. 45, 104, '5, & 4. Opinions Att'y-Gen'l, 92.)

21st. Certified copies of patent, certificates on Clark and on Donaldson & Scott claims, issued by reg. at N. O., 30th Jan., 1843. (Sen. Doc. 45, 125.)

22d. Sec'y of Treas. to S. D. King, 15 Nov., 1843, saying he would not decide the Houmas case. (Sen. Doc. 45, 114.)

23d. Comm'r to Wm. R. King, U. S. Senate, of 1st March, 1844, saying he had refused to issue patents of Houmas claim and would so continue, &c. (Sen. Doc. 45, 114, 115.)

24th. Copies of patents, issued 22d Aug., 1844, on Daniel Clark and Donaldson & Scott. (Sen. Doc. 45, p. 131.)

25th. Comm'r to sur'r.gen'l of La., of 24th Oct., 1844, telling him to prepare plat of Wm. Conway. (Sen. Doc. 45, 137.)

26th. Application of Isaac T. Preston, of 23d Sept, 1844, for patent on Wm. Conway. (Sen. Doc. 45, 135.)

27th. Application of Wm. C. Johnson, of 19th Oct., 1844, for
344 patent on same. (Sen. Doc. 45, 134.)

28th. Order from the President to the Comm'r, of March 3d, 1845, telling him to issue patent on Wm. Conway. (4 Opinions Att'y-Gen'l, 678.)

29th. Application of J. T. Preston of 12th May, 1845, to Comm'r, for patent on Wm. Conway. (4 Opinions Att'y-Gen'l, 679.)

30th. Comm'r to Sec'y of Treas., of 24th June, 1845, submitted above, application of Preston and a report on the same. (4 Opinions Att'y-Gen'l, 679.)

31st. Certified copy of list of swampsland selections in T. 8 S., R. 4 E., SE. dist. E. of river, La., approved by Sec'y of Int., June 10th, 1881.

32d. Certified copy of list of swamp selections in T. 9 S., R. 4 E., SE. dist. E. of river, La., approved by Sec'y of Int. June 10, 1881.

33d. Sec'y of Treas. to Comm'r, of Aug. 12, 1844, directing patents to issue on Houmas grant. (Sen. Doc. 45, pp. 126 to 131.)

34th. Register L. O. at N. O., to Comm'r G. L. O., telling him of the issue of pat. cert. on Wm. Conway. (Sen. Doc. 45, p. 25.)

345 35th. Pat. cert. issued by register L. O. at N. O., Dec. 7, 1844 on Wm. Conway. Old board E. dist. of La. (Sen. Doc. 45, p. 26.)

36th. Pat. plat with field-notes of survey superadded, of claim of Wm. Conway. Old board, &c., No. 125. Certified by F. D. Newcomb, sur'r.-gen. of La., Nov. 25, 1844. (Sen. Doc. 45, p. 138 to 143.)

37th. Certificate of register at N. O., La., of 12 Jan., 1842, testifying to the dates of the confirmation of the Houmas claim. (Sen. Doc. 45, p. 89.)

38th. Comm'r, &c., to register L. O. at N. O., La., of 24th Oct., 1844, sending him copy of the decision of Sec'y of Treas. of Aug. 12, 1844. (Sen. Doc. 45, &c., p. 138.)

39th. Sec'y of Int. to Comm'r, of 4th May, 1878, being his decison on appeal from the Comm'r's decision in Houmas case of 22 June, 1877.

40th. Sec'y of Int. to Comm'r G. L. O., of 3d May, 1881, holding that Wm. Conway division of Houmas grant was no bar to approvals by him of swamp-land selections under act of M'ch 2d, 1849. (Copp's Land Owner, vol. 8, p. 21.)

346 41st. Sec'y of Interior to Comm'r G. L. O., of 9th May, 1878, directing the withholding for 3 months all lands in Houmas grant.

42d. Sec'y of Int. to Comm'r G. L. O., of 21 June, 1877, telling him to enforce his (the Sec'y's) decision of May 4, 1878.

43d. Comm'r to Sec'y of Int., of 11 Jan'y, 1859, being report on application for patent on Wm. Conway by John Slidell (referred to in 1st part of decision of Comm'r of 22 June, 1877). (Copp's Land Owner, vol. 4, p. 70.)

As the suit in which these documents are required is now at issue, and a limited time only allowed in which to file evidence, I hope it will be convenient to furnish the copies at an early date.

Very respectfully, your ob't serv't,

(Signed) J. L. BRADFORD,

Att'y for Owners of Wm. Conway Division of Houmas grant.

P. S.—No. 44. Also Sec'y of Int. to Comm'r, of Dec'r 10, 1860, returning Slidell's application for patent on Wm. Conway, and calling
347 attention to the repeal by the act of 21st June, 1860.

(Signed.) J. L. B.

I do solemnly swear that the above and foregoing is a true copy of the original.

(Signed) J. L. BRADFORD.

Subscribed and sworn before me, April 17th, 1882.

(Signed) T. V. COUPLAND.

Comm'r U. S. Circuit Court, Eastern District of Louisiana.

348 Original letter from the Commissioner of the General Land Office to J. L. Bradford, of April 4th, 1882, transmitting evidence in the Houmas grant. Filed April 17th, 1882, in the case of Alfred Slidell et als. vs. Thomas J. Emler et als., No. 9828 of the docket of this court. Offered in evidence by complainants May 1st, 1882, mentioned as "10" in foregoing note of evidence.

[Refer in reply to this initial "D."]

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., April 4, 1882.

JAMES L. BRADFORD, Esq.,
No. 44 *Natchez st., New Orleans, La.:*

SIR: In compliance with your' of the 26th inst., I transmit herewith

copies of papers relative to the Houmas grant, in Louisiana (on file or of record here), certified under certificates and seal of this office.

As you have been personally advised several papers connected with said claim, and once forming a portion of our files, have been lost or mislaid.

349 The papers connected with this celebrated case have been officially intrusted to many different officers of the government in times past, and have become separated to a certain extent. Those papers which have not been found so far are described in your application as follows, viz:

"8th. Sec. of Treas. to Comm'r, of 31st Oct., 1840, saying do nothing in Houmas grant till Cong. acts. (Sen. Doc. 45, p. 54.)

"12th. Plat of Wm. Conway, as surveyed by E. D. Richardson in Oct. 1840, and June, 1841 (described as E. No. 3 in Sen. Doc. 45, p. 89, No. 26.)

"16th. Att'y-Gen'l to of 25th July, 1842, giving opinion on Houmas grant. (Sen. Doc. 45, p. 94, No. 28.)

"18th. Att'y-Gen'l to Comm'r, of 16th August, 1842, asking practice in issuing patents on land claims. (Sen. Doc. 45, p. 101.)

"20th. Att'y-Gen'l to Sec. of Treas., of 2nd Sept., 1842, saying sales in Houmas were void under act of 1811. (Sen. Doc. 45, 104–5, and 4 Opinions Att'y-Gen'l, 92.)

"21st. Pat. certificates on Clark and on Donaldson and Scott claims, issued by reg. at N. O. 30th Jan., 1843. (Sen. Doc. 45, p. 125.)

"26th. Application of Isaac T. Preston, of 23rd Sept., 1844, for
350 patent on Wm. Conway. (Sen. Doc. 45, 135.)

"27th. Application of Wm. C. Johnson, 19th Oct., 1844, for patent on same. (Sen. Doc. 45, 134.)

"28th. Order from President to Comm'r, of 3d March, 1845, telling him to issue patent on Wm. Conway. (4 Opinions Att'y-Gen'l, 678.)

"29th. Application of I. T. Preston, of 12th May, 1845, to Comm'r, for patent on Wm. Conway. (4 Opinions Att'y-Gen'l, 679.)

"33d. Sec. of Treas. to Comm'r, of August 12th, 1844, directing patents to issue on Houmas grant. (Sen. Doc. 45, pp. 126 to 131.)

"34th. Register L. O. at N. O. to Comm'r G. L. O., of 7th Dec., 1844, telling him of the issue of pat. cert. on Wm. Conway. (Sen. Doc. 45, p. 25.)

"35th. Pat. cert. issued by reg. L. O. at N. O., Dec. 7th, 1844, on Wm. Conway, old board E. dist. of La. (Sen. Doc. 45, p. 26.)

"37th. Cert. of reg. at N. O., La., of 12th January, 1842, testifying to dates of confirmation of Houmas claims. (Sen. Doc. 45, p. 89.)" The legal fee for such of the copies transmitted as were prepared in this office, certified under seal, is $36.45, and the money has been paid on your account by Willis Drummond, esq., of this city.

If any of the papers above enumerated as missing can be found,
351 certified copies of the same will be furnished you. Please acknowledge the receipt of the enclosed documents.

Respectfully,

(Signed) N. C. McFARLAND,
Commissioner.

Copy of letter from the Commissioner of the General Land Office to the register at New Orleans, La., of Oct. 31st, 1878, saying Secretary of Interior had affirmed his decision of July 9th, 1878, in John Sides' case. Filed March 8th, 1882, in the case of Alfred Slidell et als. vs. Thomas J. Emler et als., No. 9828 of the docket of this court. Offered in evidence by complainants, May 1st, 1882; mentioned as "11" in foregoing note of evidence.

[Refer in reply to this initial "G."]

Hot Sp'gs, Doc. P., 385. [M. B.

DEPARTMENT OF THE INTERIOR, [F. W. A.
GENERAL LAND OFFICE,
Washington, D. C., Oct. 31st, 1878.

REGISTER and RECEIVER, *New Orleans, La.:*

GENTLEMEN: You are hereby advised that on the 29th inst. the Hon. Acting Secretary of the Interior considered the application for re-
352 instatement of cash entry No. 207, of John Sides, on lot 1, sec. 21, T. 9 S., R. 2 E., and affirmed the decision of this office of July 9th, 1878, refusing the application. Notify parties in interest of the Hon. Acting Secretary's decision, a copy of which is herewith enclosed.

Respectfully,
(Signed) J. M. ARMSTRONG,
Acting Commissioner.

I hereby certify that this is correct copy of the original letter G, dated Oct. 31, 1878, on file and of record in this office.
(Signed) GEO. BALDY,
Register U. S. Land Office.

NEW ORLEANS, LA., *March 8th*, 1882.

Copy of the notice of claim by Wm. Conway, filed before the board of commissioners in 1806. Filed March 22nd, 1882, in the case of Alfred Slidell et als. vs. Thomas J. Emler et als., No. 9828 of the docket of this court. Offered in evidence by complainants May 1st, 1882; mentioned as "12" in foregoing note of evidence.

Notice of the claim of William Conway, of the county of Acadia,
353 *in the eastern district of the Territory of Orleans.*

William Conway claims a tract of land situated in the county aforesaid, at the place called Houmas, on the left bank of the Mississippi, containing twenty-two and a half arpents in fron' on said river, with an opening towards the rear of 60 degrees and 45 minutes, the upper line running N. 9° 15 E., three hundred and fifty-one arpents, and the lower line directed N. 70° E., and measuring four hundred and fifty-five arpents. Bounded on the upper side by Dan'l Clark, and on the lower by Simon Laneau, as more fully described in the annexed platt, executed by Bartholomew Lafon, deputy surveyor, dated Feb'y 20th, 1806.

Part of said land, that is to say, seventeen arpens front, were originally

granted with a greater quantity by the Spanish Government to Maurice Conway, by virtue of a complete title issued on the 21st day of June, 1777, as per document No. 1, and the same conveyed to the claimant by
354 the grantee aforesaid, on the 27th day of October, 1786, as per document No. 2.

And the five and a half arpents remaining to the compliment of the 22½ aforesaid, were transferred to the claimant, on the 27th day of March, 1781, by Pierre Part, who had purchased the same at the public sale made before Louis Jondice, commandant of the parish of La Fourche of the estate of the late Joachin Mire (alias Belony,) on the 7th day of December, 1878, "as it evidently appears by the authenticated document hereunto annexed, No. 3."

It is to be observed that although the deed of conveyance of Maurice Conway aforesaid, contains 27 arpens front, the claimant only possesses seventeen, having disposed of the other ten in favor of Daniel Clark.

(Signed) WILL'M CONWAY.

No. 125, Territory of Orleans, eastern district. Notice of claim of William Conway. Filed New Orleans, Feb'y 28th, 1806. (Signed) J. W. Gurley, register.

355 I hereby certify that the foregoing is a true and literal copy of the original document on file in this office.

(Signed) GEO. BALDY, *Register.*

U. S. LAND OFFICE, *New Orleans, Feb'y 24th*, 1882.

Translation into English of Lafon's process verbal of survey of February 20th, 1806, sworn to by Mrs. Eliza Dixon. Filed March 22nd, 1882, in the case of Alfred Slidell et als. vs. Thomas J. Emler et als., No. 9828, of the docket of this court. Offered in evidence by complainants, May 1st, 1882, mentioned as "13" in foregoing note of evidence.

Survey.

Land office, southeastern district of Louisiana.

THE HOUMAS SETTLEMENT.

At New Orleans, the 20th of the month of February, 1806, and the 30th of the Independence of the United States.

I, the undersigned, Bartheleme Lafon, a surveyor deputized by Isaac Briggs, surveyor-general of the lands south of Tennessee, certify the
356 present plan, conformable to the surveys executed by Mr. Andry, surveyor, in the month of March, 1804, and to those which I made of the river Amite, in December of the year 1803, by which there results in favor of Mr. William Conway, a piece of land of 27 arpents front on the right bank of the Mississippi, in the quarter of the Houmas, at 22″ distance from New Orleans, limited by two lines, of which the upper one runs N° 9 degrees 15′ E., having three hundred and fifty-one arpents of depth and extending to the river Amite, ¼ of a mile below Grais Creek, the second lower one running N. seventy degrees E., of the compass, in the year 1776, and that of 67° E., of the present year, having in depth four

hundred and fifty-five arpents, and terminating at Lake Maurepas, bounded on the south by the Mississippi, on the west by Daniel Clark, on the north by the Amite River, and on the east by Simon Laneau.

Having asked to see the titles which certify to the ownership, various documents were presented to me, by which it proves that Mrs.
357 Latille McNamara and Maurice Conway bought from the Houmas savages an extent of ground containing 96 arpents; that Maurice Conway bought of Latille and Bartheleme McNamara the 4th of January, 1776, the portion of land which they had in their part; that Maurice Conway obtained by concession the 22nd of June, 1777, from the Counte of Galvez, then governor in this province, all the back part of his plantation that was vacant, following the lines which then formed his plantation, which ran, the one N°. 50″ W., the other N°. 70″ E.; that the 27th October, 1786, W. Conway bought from his uncle, Maurice Conway, a portion of land, A B C E, of about 27 arpents front, with the depth conformably to the titles that had been given him the 22nd June, 1777; that Maurice Conway sold to Oliver Pollock, a portion of his land, E F L K, which belonged successively to Dr. Anderson, whose succession sold it to Belony Meer, and which, he being dead, five arpents and a half of this land, E F I K, were bought by his testamentary executor, Pierre Part, and that at last Pierre Part, gave these five arpents and a
358 half of front by forty of depth to William Conway, in exchange for another tract of land of 20 arpents on the other bank of the river, by an act before the commandant of Lafourche, dated 7th December, 1788, so that William Conway found himself possessor, in the year 1804, of a front, A I, of 32 arpents and a half, of which he sold ten arpents, A B C D, in 1805, to Mr. D. Clark; by this sale there would remain to Mr. Conway but 22 arpents and a half of front, D C N H I, but the partial surveys that were made precedently by his uncle, and the accretions having augmented the total front, which lies in a bend, his uncle having sold to him with the condition more or less, and having bounded it by the neighbors, Patrice Conway and Anderson, the four arpents and a half of surplus belongs to him by right.

Moreover, William Conway having bought but forty arpents depth from Pierre Part, E F H I, and Maurice Conway having reserved the back portions, F G L M, W. Conway claims these same back portions of the five arpents and a half, and those of ten arpents, H L M N,
359 as being the heir of his uncle. Thus it appears by the above plan that William Conway possesses an irregular surface of ground, D C G M L H F E, bounded as specified above.

In faith whereof I have given the present plan and process verbal the same day and year as above.

LAFON,
Deputy Surveyor.

I do solemnly swear that I am well versed in the French and English languages, and well qualified to make true and correct translations from the former into the latter language of deeds, surveys, and legal documents; that the foregoing three pages and this page contain a true and correct translation of a document in the French language purporting to be a process verbal or certificate of survey signed by Lafon, deputy surveyor,

dated at New Orleans the 20th February, 1806; said translation has been made by me from a copy of said survey in French, as the same appears on the first four pages immediately following the plat, in a document of 24 pages, certified as true copies of the originals, on the
360 15th February, 1882, by F. A. Woolfley, clerk of the United States circuit court for the eastern district of Louisiana, the said originals forming a part of the record in the suit of United States vs. Daniel Clark et als. No. 1814 of the docket of said court.

(Signed) ELIZA DIXON.

Sworn to and subscribed before me by the said Mistress Eliza Dixon this 22nd day of March, A. D. 1882.

[SEAL.] (Signed) WM. H. SEYMOUR,
Notary Public.

Copy of the approved list of swamp-land selections in T. 8 & 9 S., R. 4 E., certified by register State land office March 8th, 1882, filed March 8th, 1882, in the case of Alfred Slidell et als. vs. Thomas J. Emler et als., No. 9828 of the docket of this court, offered in evidence by complainants May 1st, 1882, and mentioned as "14" in foregoing note of evidence.

SWAMP LANDS.

No. 26. A list of swamp and overflowed lands selected as inuring to the State of Louisiana, under the provisions of the act of Congress ap-
361 proved March 2nd, 1849, in the district of lands subject to sale at New Orleans, Louisiana, viz:

Received at U. S. land office, New Orleans, La., June 4th, 1881.
Posted.

(Signed) GEO. BALDEY,
Register.

7. 785-500. Southeastern district (east of the Mississippi River).

Parts of sections.	Section.	Township.	Range.	Surveyed area.		Unsurveyed area.		Total area.	
				Acres.	H'd'ths.	Acres.	H'd'ths.	Acres.	H'd'ths.
		S.	E.						?
All of fr'l sec	19	8	4	38	60				
" " " "	29	"	"	51					
" " " "	30	"	"	560	03				
" " " "	31	"	"	606	72				
" " " "	32	"	"	279	34				
									1,535 69
All of fr'l sec	5	9	4	490	78				
NE. ¼	6	"	"	159	87				
NE. ¼ SE. ¼	6	"	"	39	92				
NE. ¼	8	"	"	159	75				
E. ½ SE. ¼	8	"	"	79	62				
E. ½ NW. ¼	8	"	"	79	87				
All of fr'l sec	9	"	"	368	39				
" " " "	10	"	"	407	41				
" " " "	11	"	"	218	37				
" " " "	12	"	"	100	64				
N ½ of NW	13	"	"	79	71				
Lot No. 1	13	"	"	72	35				
" " 2	13	"	"	77	84				
NE. of NE. ¼	14	"	"	40					
W. ½ of NW. ¼	14	"	"	80					
NE. ¼	15	"	"	160	10				
W. ½	15	"	"	320	40				
W. ½ of SE. ¼	15	"	"	80	15				
362 E. ½ of NE. ¼	17	9	4	79	66				
NW. ¼ " NW. ¼	17	"	"	39	83				
NW. ¼ " SW. ¼	17	"	"	39	99				
SE	17	"	"	159	97				
NE. ¼ of NE	18	"	"	39	68				
W. ½ " NE	18	"	"	79	36				
W. ½	18	"	"	316	96				
N. ½ " SE. ¼	18	"	"	79	12				
SE. ¼	19	9	4	157	70				
NE. ¼	20	"	"	160	32				
S. ½ of NW. ¼	20	"	"	80	16				
S. ½	20	"	"	320	76				
S. ½ of NE. ¼	21	"	"	80					
NW. ¼	21	"	"	160	11				
S. ½	21	"	"	320	68				
S. ½	22	"	"	321	10				
SE. ¼ of NE. ¼	23	"	"	40					
W. ½ " NE. ¼	23	"	"	80	01				
NW	23	"	"	160	06				
S. ½	23	"	"	320	44				
S. ½	24	"	"	320	70				
All of sec	25	"	"	642	20				
" "	26	"	"	641	80				
NW. ¼	27	"	"	160	55				
E. ½ of SW. ¼	27	"	"	80	22				
NW. ¼ of SW. ¼	27	"	"	40	11				
E. ½	27	"	"	321					
N. ½	28	"	"	321	08				
N. ½ of SE. ¼	28	"	"	80	36				
NE. ¼	29	"	"	160	45				
363 NE. ¼ of NW. ¼	29	9	4	40	11				
NW. ¼ of NE. ¼	30	"	"	39	37				
NE. ¼ " NW. ¼	30	"	"	39	37				
S ½	31	"	"	316	88				
S ½ " SW. ¼	32	"	"	79	34				
SE. ¼ " SE. ¼	34	"	"	40					
E. ½	35	"	"	322	42				
E. ½ of W. ½	35	"	"	160	58				
SW. " SW. ¼	35	"	"	40	11				
All of section	36	"	"	647	54				
									10,545 27
(In red ink:) Total									$11,879 96

GENERAL LAND OFFICE,
SWAMP LAND DIVISION,
June 8th, 1881.

This certifies that the tracts of land embraced in the foregoing list were duly reported to this office by the United States surveyor-general for

Louisiana as swamp land, and are embraced in the appeal case of the State of Louisiana from the decision of this office of Nov. 24th, 1879, holding for rejection the claim of the State thereto; which appeal was transmitted to the honorable Secretary of the Interior with letter from this office of Feb. 3rd, 1880, and the decision of this office was reversed May 3rd, 1881.

On examination of the tract-books of this office, said tracts are
364 found to be free from conflict by sale or otherwise.

(Signed) E. KILLPATRICK,
Examining Clerk.

(Signed) S. L. CRISSEY,
Chief of Swamp Division.

I hereby certify that the foregoing list of lands is not embraced in any claim that has been confirmed or that is awaiting confirmation.

(Signed) L. HARRISON,
Chief of Swamp Division.

I hereby certify that the foregoing list of lands is not embraced in any claim that has been confirmed or is awaiting confirmation.

(Signed) L. HARRISON,
P. C. Priv. Land Claims, G. L. O.

June 9th, 1881.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
June 8th, 1881.

Respectfully submitted for approval.

(Signed) C. W. HOLCOMB,
Acting Commissioner.

J. K. McC.] DEPARTMENT OF THE INTERIOR,
W. J. B.] *10th June*, 1881.

The foregoing list of swamp selections is hereby approved, subject to any valid legal rights that may exist to any of the tracts therein described.

(Signed) S. J. KIRKWOOD,
Secretary.

365 I, C. W. Holcomb, Acting Commissioner of the General Land Office, certify that the foregoing is a true copy of approved list No. 26 of swamp and overflowed lands selected as inuring to the State of Louisiana under the provisions of the act of Congress approved March 2nd, 1849, in the district of lands subject to sale at New Orleans.

In testimony whereof I have hereunto subscribed my name and caused the seal of the General Land Office to be affixed, at the city of Washington, the 16th day of June, 1881.

[SEAL.] (Signed) C. W. HOLCOMB,
Acting Commissioner.

I hereby certify that this list of swamp selections is a true and correct copy of the original list No. 26, now on file and of record in this office.

(Signed) GEO. BALDEY,
Register U. S. Land Office.

New Orleans, La., March 8th, 1882.

366 Abstract of State entries in T. 8 & 9 S., R. 6 E., certified by register State land office, Dec'r 29th, 1881. Filed March 22nd, 1882, in the case of Alfred Slidell et als. vs. Thomas J. Emler et als., No. 9828 of the docket of this court. Offered in evidence by complainants May 1st, 1882. Mentioned as "15" in foregoing note of evidence.

367 *Abstract of State land entries.*

Date of entry.	No. cert.	Statute under which entered.	Locator or purchaser.	Part of section.	Sec.	Town.	Range.	Area.	Amount.	No. patent.	Remarks.
Feb'y 2, 1881	3512 N.S.D.	Sec. 10, act 75, 1880.	Mrs. M. Katie Hutchinson	NW. ¼ of NW. ¼	6	9 S.	6 E.	.....	...	....	
" 12, "	3523 "	" " " " "		Lots 3, 4	31	8 "	6 E.	61.08	7 63	....	Sett. and cult.
			Joseph D. Miller	NW. ¼ of NE. ¼	6	9 "	6 E.	.....	...	....	
June 3, "	3602 "	" " " " "	Charles Watterson	Lots 1, 2. & SE. ¼ of SE. f'e ¼	31	8 "	6 E.	133.64	16 70	....	" " "
April 8, 1880	3152 "	Sec. 3, act 704, 1871.	James Clark	Lots 1, 2, 3, & S. ½ of SW. ¼	32	8 "	6 "	161.96	21 47	....	" " "
" 8, "	3151 "	" " " " "	James Clark	S½ & NW. ¼	2	9 S.	6 E.	437.42	109 35	....	Tidal overflowed.
" 12, "	3162 "	" " " " "	S. LeBourgeois	S. ½	3	9 "	6 "	320.48	80 12	.	" "
				N. ½	3	....	....	.....	.....	....	
				All f'e	14	" "	" "	346.68	86 67	....	" "
Feb. 7, 1881	832 H'd.	Sec. 2. act 21, 1871.	John Scott	NE. ¼ of NW. ¼. W. ½ & NE. ¼ of NE. ¼	5	" "	" "	160.24	.....	....	Homestead.
May 20, 1881	847 H'd.	" " " " "	Harriet Green	SW. ¼ of NE. ¼. S. ½ of NW. ¼.	4	....	....	.....	.....	....	
				SE. ¼ of NE. ¼	5	" "	" "	160.15	.....	....	Homestead.
April 12, 1880	3163 N.S.D.	Sec. 3, act 104, 1871.	S. LeBourgeois	All	15	" "	" "	643.20	160 95	....	Tidal overflowed.
May 5, "	3220 "	" 10, " 75, 1880.	Colin Lestodin	NW. ¼ of NE. ¼	19	" "	" "	40.31	5 02	....	Sett. and cult.
" " "	3212 "	" " " " "	John Serhona	SE. ¼	20	" "	" "	160.28	20 03	....	" " "
" " "	3213 "	" " " " "	Jean Vignes	SW. ¼	20	" "	" "	160.28	20 03	....	" " "
" " "	3218 "	" " " " "	Alexander Ernest	SW. ¼	21	" "	" "	160.47	20 06	....	" " "
" " "	3214 "	" " " " "	Francois Casalas	N. ½ of SW. ¼	29	" "	" "	79.92	9 99	..	" " "
" " "	3216 "	" " " " "	Rene Gery	SE. ¼	29	" "	" "	159.84	19 98	....	" " "
" " "	3215 "	" " " " "	Francois Noustemes	NE. ¼	29	" "	" "	159.84	19 98	....	" " "
" " "	3217 "	" " " " "	Francois Pilcemennes	NW. ¼	29	" "	" "	159.84	19 98	....	" " "
" " "	3219 "	" " " " "	Colin Lestodin	S. ½ of SW. ¼	29	....	....	.....	.....	....	
				SE. ¼ of SE. ¼	30	" "	" "	115.95	14 49	....	" " "

STATE LAND OFFICE,
New Orleans, La., December 29th, 1881.

I certify the above to be a true extract from the records of this office showing all the State land entries, and the statutes under which entered, in T. 8 S., R. 6 E., and T. 9 S., R. 6 E., in the south E. district east of river.

Witness my hand & seal of office this twenty-ninth day of December, 1881, A. D.

[SEAL.] (Signed)

L. FREMAUX,
Register of State Lands.

368 Abstract of State entries in T. 8 S., R. 4 E., certified by State register of lands, Dec. 23rd, 1881. Filed March 22nd, 1882, in the case of Alfred Slidell et als. vs. Thomas J. Emler et als., No. 9828 of the docket of this court. Offered in evidence by complainants May 1st, 1882, mentioned as "16" in foregoing note of evidence.

369 *Abstract of all the State land entries in T. 8 S., R. 4 E., S. E. dist. E. of river.*

Date of entry.	No. cert.	Statute under which entered.	Locator or purchaser.	Part of section.	Sect.	Town.	Range.	Area.	Amount.	No. patent.	Remarks.
Nov. 6, 1879	2965 N.S.D.	Sec. 1, act 104, 1871.	C. S. D. Porter	All fra'l	19	8 S.	4 E.				
				Lots 1, 2, 3, 4, & NW. ¼ of NW. ¼	30	8 S.	4 E.	171.50	21 43	4165	Sett. and cult.
June 30, 1881	196	Sec. 8, act 75 of 1880.	John McEnery	All frac'l	29						
				W. ½ & SE. ¼ of SE. ¼	30						
				W. ½ & NE. ¼ of NE. ¼	31	8 S.	4 E.	293.41			Located with act 23, 1880.
July 19, 1881	3638 N.S.D.	Sec. 10, act 75, 1880.	Ernest Tero	S½ of NW. ¼ & N. ½ of SW. ¼	30	8 "	4 E.	159.80	19 98	4177	Sett. and cult.
" " "	3639 N.S.D.	" " " " "	Vincent Villarr	S½ of SW. ¼	30						
				N½ of NW. ¼	31	8 "	4 "	155.74	19 47	4178	Sett. and cult.
April 12, 1880	3153 "	Sec. 3, act 104, 1871.	Milton B. Muncy	SE. ¼	31	8 "	4 "	151.68	37 92	4133	Tidal overflowed.
July 19, 1881	3640 "	Sec. 10, act 75, 1880.	W. H. Wall	SE. ¼ of NW. ¼, NE. ¼ of SW. ¼	31	8 "	4 "	75.94	9 49	4180	Sett. and cult.
" " "	3641 "	" " " " "	C. W. Wall	W. ½ & SE. ¼ of SW. ¼, SW. ¼ of SW. ¼	31	8 "	4 "	151.68	18 96	4179	" " "
Aug. 29, "	3666 "	" " " " "	Mrs. Marie Deis	SE. ¼ of NE. ¼	31						
				Lot 1 & W. ½ of NW. ¼	32	8 "	4 "	123.42	15 42	4224	" " "
April 24, 1880	3194 "	" " " " "	Hubert Brignac	Lots 2, 3, 4, W. ½ of SW. ¼	32	8 "	4 "	179.29	22 41	4193	" " "

STATE LAND OFFICE,
New Orleans, La., December 23rd, 1881.

I certify the above to be a true extract from the records of this office, showing all the entries and the statutes under which tered in township eight south, of range four east, in the southeastern district, east of the Mississippi River.
Witness my hand and seal of office this twenty-third day of December, 1881, A. D.
[SEAL.] (Signed)

L. FREMAUX,
Register State Lands.

370 Abstract of State sales in T. 9 S., R. 4 E., certified by register of State lands, Dec'r 29th, 1881. Filed March 22nd, 1882, in the case of Alfred Slidell et als. vs. Thomas J. Emler et als., No. 9828 of the docket of this court. Offered in evidence by complainant, May 1st, 1882; mentioned as "17" in foregoing note of evidence.

Abstract of all the State lands entries in T. 9 S., R. 4 E., S. E., E. of river dist., La.

Date of entry.	No. cert.	Statute under which entered.	Locator or purchaser.	Part of section.	Sect.	Town.	Range.	Area.	Amount.	No. patent.	Remarks.
June 8, 1880	3284 N.S.D.	Sec. 10, act 75, 1880.	Wid Martin Mevran	S. ½ of SW. ¼	5	9 S.	4 E.	80	10	4163	Sett. and cult.
" 19, 1881	3642 "	" " " " "	Robert Brown	N. ½ of SW. ¼ & lot 3	5	" "	"	134. 57	16 82	4181	" " "
Sept. 3 "	3673 "	" " " " "	Caroline Wells	Lot 4	5	" "	"	39. 42	4 92	4230	" " "
July 11, "	2609 "	" " " " "	Daniel D. Owens	Lot 1, & NW. ¼ of NW. ¼	5						
				E. ½ of NE. ¼	6	" "	"	157. 77	19 72	4165	" " "
April 29, 1880	3207 "	" " " " "	Leonce Salassi	Lots 2, 3, 4, SE. ¼ of SW. ¼	9	" "	"	178. 16	34 62	4144	" " "
" " "	3205 "	" " " " "	Adam Laiche	Lot 5	9						
				SW. ¼ of SW. ¼	10						
				NW. ¼ of NW. ¼	15	" "	"	147. 92	18 49	4145	" " "
" " "	3203 "	" " " " "	Charles F. Salassi	Lots 3, 4, E. ½ of SW. ¼	10	" "	"	166. 04	24 53	4143	" " "
" " "	3206 "	" " " " "	William A. Davidson	Lots 1, 2. N. ½ of SE. ¼	10	" "	"	121. 37	15 17		" " "
" 24, "	3193 "	" " " " "	Alexander Vickner	S. ½ of SE. ¼	10						
				W. ½ of NE. ¼	15	" "	"	160	20	4192	" " "
" 24, "	3197 "	" " " " "	John Ely, assignee of Milton B. Muncy.	Lots 3, 4	11	" "	"	116. 83	14 60	4305	" " "
May 19, "	3260 "	" " " " "	Severin Laiche	Lots 1, 2	11						
				NE. ¼ of NE. ¼	14	" "	"	141. 54	17 69	4195	" " "
Aug. 13, 1881	3661 "	" " " " "	Abraham Cornet	Lots 1, 2, 3	12						
				N. ½ of NW. ¼	13	" "	"	180. 36	35 27	4213	" " "
May 6, 1880	3222 "	" " " " "	Pierre Louis Cornet	Lots 1, 2	13	" "	"	150. 19	18 77	4155	" " "
April 24, 1880	3196 "	" " " " "	Justillien Keller	NW. ¼ of NE. ¼, ¼ E., of NW. ¼	14	" "	"	120	15		" " "
" " "	3195 "	" " " " "	Louis Durand	W. ½ of NW. ¼	14						
				E. ½ of NE. ¼	15	" "	"	160. 05	20	4194	" " "
" 29, "	3204 "	" " " " "	Charles F. Salassi	E. ½ & SW. ¼ of NW. ¼	15	" "	"	120. 08	90 06	4142	Cash.
" 12, "	3156 "	Sec. 3, act. 104, 1871.	M. B. Muncy and A. M. Davidson.	W. ½ of SE. ¼, SW. ¼	15						
371											
				S. ½ of NE. ¼	21						
				N. ½ of S. ½	22	9 S.	4 E.	481. 06	120 26	4136	Tidal overflowed.
April 12, 1880	3161 N.S.D.	Sec. 3, act 104, 1871.	Charles F. Salassi	NW. ¼ of NW. ¼, NW. ¼ of SW. ¼	17						
				N. ½ of SE. ¼, W. ½ & NE. ¼ of NE. ¼	18	" "	"	277. 88	69 49	4141	Tidal overflowed.
Sept. 1, 1881	3669 "	Sec. 10, act 75, 1880.	Mathieu Morin	SW. ¼ of NE. ¼	17						
				NW. ¼ & SE. ¼ of NE. ¼, NE. ¼ of SE. ¼	20	" "	"	106. 25	20 03	4238	Sett. and cult.
May 6, 1880	3224 "	" " " " "	Wid. Pierre Lavoie	SW. ¼ of SE. ¼	18	" "	"	39. 56	4 94		" " "
April 12, 1880	3160 N.S.D.	Sec. 3, act 104, 1871.	William Little	SW. ¼ of NE. ¼, SE. ¼ of NW. ¼	29	9 S.	4 E.	80. 16	20 04	4140	Tidal overflowed.
May 6, "	3223 "	Sec. 10, act 75, 1880.	Alcea Pierre Savoie	NE. ¼ of NW. ¼	20	" "	"	40. 08	5 01		Sett. and cult.
Sept. 1, "	3668 "	" " " " "	William Little	NE. ¼ of NE. ¼	20						
				W. ½ of NW. ¼, NW. ¼ of SW. ¼	21	" "	"	160. 22	20 03	4224	" " "

Abstract of all the State lands entries in T. 9 S., R. 4 E., E. of river dist., La.—Continued.

Date of entry.	No. cert.	Statute under which entered.	Locator or purchaser.	Part of section.	Sect.	Town.	Range.	Area.	Amount.	No. patent.	Remarks.
April 12, "	3157 "	Sec. 3, act 104, 1880.	M. B. Muncy and A. M. Davidson.	W. ½ & SE. ¼ of NE. ¼, SE. ¼, W. ½	23	"	"	600.55	150 14	4137	Tidal overflowed.
" 12, "	3158 "	" " " " "	M. B. Muncy and A. M. Davidson.	S. ½	24						
				E. ½	25	"	"	641.80	160 45	4138	" " "
" 12, "	3154 "	" " " " "	Milton B. Muncy	SW. ¼	25						
				S. ½	26	"	"	484.40	121 10	4134	" " "
" 12, "	3159 "	" " " " "	M. B. Muncy and A. M. Davidson.	NW. ¼	25						
				N. ½	26	"	"	481.75	120 36	4139	" " "
Nov. 6, 1879	2968 "	" 1, " " "	S. Barman, assignee of C. D. Hearsey.	SE. ¼	31	"	"	158.44	19 80	4130	Sett. and c'lt.
" 6, "	2969 "	" " " " "	A. M. Guedry, assignee of Edw'd Fraiche.	SW. ¼	31	"	"	158.44	19 80	4129	" " "
April 12, 1880	3155 "	" 3, " " "	Milton B. Muncy	All	36	"	"	647.54	161 88	4135	Tidal overflowed.

STATE LAND OFFICE,
New Orleans, La., Dec. 29th, 1881.

I certify the above and foregoing to be a true extract from the records of this office, showing all the State land entries, and the statutes under which entered, in township nine south, of range four east, in the southeastern land district, east of river.

Witness my hand and seal of office this twenty-ninth day of December, 1881, A. D.

[SEAL.] (Signed)

L. FREMAUX,
Register of State Land.

372 Original list of swamp land selections in T. 8 S., R. 4 E., dated August 18th, 1879. Filed March 8th, 1882, in the case of Alfred Slidell et als. vs. Thomas J. Emler et als., No. 9828 of the docket of this court; offered in evidence by complainants May 1st, 1882, mentioned as "18" in foregoing note of evidence.

SOUTHEASTERN DISTRICT LA., EAST OF MISSISSIPPI RIVER.

List of swamp or overflowed lands selected from the approved field notes of John Gilmore, d. s., accruing to the State of Louisiana under the provisions of an act of Congress approved March 2nd, 1849, excepting such portions thereof as are rightfully claimed or owned by individuals.

T. 8 S., R. 4 E.

Parts of sections.	Secs.	Area.	Remarks.
All	19	31.51	
All	29	59.80	
All	30	539.49	
All	31	606.72	
All	32	264.06	
Total		1,502.31	

SURVEYOR-GENERAL'S OFFICE,
New Orleans, La., August 18th, 1879.

Examined and approved.
(Signed) O. H. BREWSTER,
Surveyor-General, La.

373 Original list of swamp land selections in T. 9 S., R. 4 E., dated May 1st, 1879, filed March 8th, 1882 in the case of Alfred Slidell et als. vs. Thomas J. Emler et als., No. 9828 of the docket of this court, offered in evidence by complainants May 1st, 1882, mentioned as "19" in foregoing note of evidence.

SOUTHEASTERN DISTRICT OF LOUISIANA.

List of swamp and overflowed lands unfit for cultivation, selected as enuring to the State of Louisiana under the provisions of an act of Congress approved 28th September, 1850, excepting such portions thereof as are rightfully claimed or owned by individuals.

NOTE.—The act under which these selections are made is the act of March 2nd, 1849, and not of 28th September, 1850, and this correction is made accordingly.

(Signed) O. H. BREWSTER,
Surveyor-General La.

T. 9. S., R. 4 E.

Parts of sections.	Secs.	Area.	Remarks.
All of	5	490. 78	
NE. ¼, & NE. ¼ of SE. ¼ of	6	199. 79	
NE. ¼, E. ½ of SE. ¼ & E. ½ of NW. ¼ of	8	319. 24	
All of	9	368. 39	
All of	10	407. 41	
374 All of	11	218. 37	
All	12	100. 64	
N. ½ of NW. ¼ & lots 1 & 2	13	229. 90	
NW. ¼ and N. ½ of NE. ¼	14	240. 00	
NE. ¼, NW. ¼, SW. ¼, and W. ½ of SE. ¼	15	560. 65	
E. ½ of NE. ¼, NW. ¼ of NW. ¼, NW. ¼ of SW. ¼ & SE. ¼	17	319. 45	
NE. ¼ of NE. ¼, W. ½ of NE. ¼, NW. ¼, SW. ¼, W. ½ of SE. ¼, & NE. ¼ of SE. ¼	18	554. 76	
SE. ¼ of	19	157. 70	
NE. ¼, SE. ¼, SW. ¼, E. ½ of NW. ¼, & SW. ¼ of NW. ¼	20	601. 32	
S. ½ of NE. ¼, NW. ¼, SW. & SE. ¼ of S. ½	21	560. 86	
	22	321. 10	
SE. ¼ of NE. ¼, W. ½ of NE. ¼, NW. ¼, SW. ¼, SE. ¼ S. ½	23	600. 55	
	24	320. 70	
All of	25	642. 20	
All of	26	641. 80	
NE. ¼, NW. ¼, E. ½, & NW. ¼ of SW. ¼, & SE. ¼	27	601. 89	
NE. ¼, NW. ¼, & N. ½ of SE. ¼	28	401. 44	
NE. ¼, NE. ¼ of NW. ¼	29	200. 56	
NW. ¼ of NE. ¼ & NE. ¼ of NW. ¼	30	78. 74	
S. ½ of	31	316. 88	
S. ½ of SW. ¼	32	79. 34	
SE. ¼, SE. ¼	34	40. 00	
E. ½, E. ½ of W. ½ & SW. ¼ of SW. ¼	35	523. 11	
All of	36	647. 54	
Total amount ceded to State	.....	10, 745. 11	

SURVEYOR-GENERAL'S OFFICE,
New Orleans, La., May 1st, 1879.

Examined & approved.
(Signed) O. H. BREWSTER,
Surveyor-General La.

SURVEYOR-GENERAL'S OFFICE,
New Orleans, La., May 31, 1881.

I certify the above and foregoing to be a true copy of the original record in this office.
(Signed) O. H. BREWSTER,
Surveyor-General La.

375 Translation into English of French deed of exchange between William Conway and Pierre Part, of March 27th, 1791. Sworn to by Mrs. Eliza Dixon on April 17th, 1882. Filed April 18th, 1882, in the case of Alfred Slidell et als. vs. Thomas J. Emler et als., No. 9828 of the docket of this court. Offered in evidence by complainants May 1st, 1882; mentioned as "20" in foregoing note of evidence.

Deed.

In the year one thousand seven hundred and ninety-one, the 27th day of the month of March, at two o'clock in the afternoon, before us, Louis

Judice, civil and military commandant & judge in the district of La Fourche de Chetimachas, parish of Ascension, appeared Messrs. William Conway, an inhabitant of this district, and Pierre Part, an inhabitant of the district of Cabahanonce, who have told us and declared to having agreed to the exchange which follows, that is to say, that Mr. William Conway cedes, from this day, to Mr. Pierre Part a tract of land of twenty arpents front by forty of depth, situated in this district on the left
376 bank of the river, at about twenty-four leagues from New Orleans, adjoining on the upper side a piece of vacant land, and on the lower side, formerly to Mr. Ferman Broussard & at present to Mr. Jacques Ferriot, which land has been conceded by Mr. Don Louis de Unzaga y Amezaga to Mr. Gregoire French, according to the titles of concession, dated at New Orleans the 3rd of November, 1765; and as the said Mr. Gregoire French died remaining debtor to Mr. Mather, the aforesaid, by a decree of Mr. De Miro, brigadier of the armies of S. M. governor & intendant-general of this province, has been put for payment in possession of the above-named twenty arpents front by the ordinary depth, which is verified by a letter of the said governor addressed to us, dated at New Orleans on the 17th of March, 1791, & the said Guillaume Conway acquired the said land from the said W. Mather, as it is also proved by the same letter of the aforesaid the governor-general of this colony. And said Mr. Pierre Part cedes, in exchange for the above-named twenty arpents front of land, a tract of land or plantation of five arpents
377 and a half front, by forty arpents of depth, situated in this district on the left bank of the river, adjoining to said William Conway on the upper side & on the lower side to Mr. Joseph Richard, which land belongs to him from having acquired it from the succession of the deceased Joaquim Mire (called Belony) by an act of adjudication passed before us, at the door of the parish church of this place, on Sunday, the 7th day of the month of December, 1788, the said gentlemen making the exchange here present accepting the present act with all its contents, and by this acknowledge to have made the exchange above mentioned, namely, Mr. William Conway gives to Mr. Pierre Part twenty acres front of land, & Mr. Pierre Part gives to Mr. William Conway five arpents and a half front each in exchange; the said exchangers acknowledge each to be in possession of the said lands, with which they are pleased & satisfied, and grant each other reciprocally a discharge, by means of which the aforesaid gentlemen expect to enjoy and dispose of as owners, from this time and forever, of the above-mentioned lands ex-
378 changed as of property belonging to them, alienating and selling as they may wish the said lands exchanged between themselves as property belonging to them, for thus they have promised and obligated themselves. Made and passed in presence of Messrs. Michel Doffy and Firman Landry, inhabitants of this district, required witnesses, who have signed with the contracting parties & us, commandant at the Fourche Chatimaches the days, month, & year as above stated.

Thus signed at this time.

GUILLAUME CONWAY.
PIERRE PART.
MICHEL DUFFY.
FIRMAN LANDRY, &
LOUIS JAUDICE.

Delivered this present copy, conformable to the original remaining in our archives of the county of Acadia, the 14th day of the month of February, 1806, and the 30th year of the Independence of the United States.

MICHEL CANTRELLE.

I do solemnly swear that I am well versed in the French & English languages, & well qualified to make true & correct translations from the former into the latter language of deeds, surveys, & legal documents. That the foregoing three pages & this page contain a true & faithful translation into English, made by me, of a copy of a French deed of exchange between Pierre Part & William Conway, of the 27th March, 1791, as the same appears in a document filed in evidence in the suit of Alfred Slidell et als. vs. Thomas J. Emler et als., No. 9828 of the docket of the United States circuit court for the eastern district of Louisiana, the said document being certified as containing true copies of originals by F. A. Woolfley, clerk of said court, on the 15th February, 1882.

(Signed) ELIZA DIXON.

Sworn to & subscribed before me, by the said Mrs. Eliza Dixon, this 17th day of April, 1882.

[SEAL.] (Signed) WM. H. SEYMOUR,
Notary Public.

379 Documents sworn to by W. H. Wright, April 20th, 1882, as containing true copies of—

1°. Certificate of register at New Orleans, La., of Jan'y 12th, 1842; printed in Senate Doc. 45, &c., p. 89.

2°. Letter from the Att'y Gen'l to the Sec'y of the Treasury of Sept. 2, 1842; printed in Sen. Doc. 45, pp. 104 & 105.

3°. Letter from the Secretary of the Treasury to the Comm'r of the G. L. O. of Oct. 31, 1840; printed in Sen. Doc. 45, &c., p. 54.

4°. Patent cert. issued on the claim of Donaldson & Scott by the register at New Orleans, La., Jan'y 30, 1843; printed in Sen. Doc. 45, &c., p. 125.

5°. Patent certificate issued on the claim of Daniel Clark by the register at New Orleans, La., Jan'y 30, 1843; printed in Senate Doc. 45, &c., p. 125.

6°. Letter from the Sec'y of the Treas'y to S. D. King of Nov. 5, 1843; printed in Sen. Doc. 45, &c., p. 114.

7°. Application of Isaac T. Preston, of Sept. 23d, 1844, for patent on the Wm. Conway claim; printed in Sen. Doc. 45, &c., p. 135.

8°. Application of W. C. Johnson, of Oct. 19, 1844, for patent
380 on the Wm. Conway claim; printed in Sen. Doc. 45, &c., p. 134.

9°. Letter from the register at New Orleans, La., to the Comm'r of the G. L. O. of Dec. 7, 1844; printed in Sen. Doc. 45, &c., p. 25.

10. Patent certificate issued by the register at New Orleans, La., Dec. 7th, 1844, on the claim of Wm. Conway; printed in Sen. Doc. 45, &c., p. 26.

Filed April 20th, 1882, in the case of Alfred Slidell et als. vs. Thomas J. Emler, No. 9828 of the docket of this court. Offered in evidence by complainants May 1, 1882, and mentioned as "21st" in the foregoing note of evidence.

No. 17.

TREASURY DEPARTMENT,
October 31*st*, 1840.

SIR: Your communication of the 3d instant has been received, together with the papers in the case of the Houmas grant in the State of Louisiana, and the claims alleged to conflict therewith.

As the subject was before Congress at its last session, and action upon the same appearing to have been omitted for the want of time, I
381 concur, as at present advised, in your suggestion that no further steps be taken in the matter until Congress shall have had further opportunity for legislative action.

The papers which accompanied your communication of the 3d instant are herewith returned, and I have also to request that you will notify the parties or their agents of the course proposed to be adopted.

Very respectfully,

LEVI WOODBURY,
Secretary of the Treasury.

The COMMISSIONER OF THE GENERAL LAND OFFICE.

No. 25.

LAND OFFICE, SOUTHEASTERN DISTRICT OF LOUISIANA,
Register's Office, New Orleans.

I do hereby certify that it appears from an examination of the journal kept by the board of commissioners for the eastern district of the Territory of Orleans that the claim (No. 125) of William Conway and that of Daniel Clark (No. 127) were confirmed on the 3d day of March,
382 1806, and, further, that the claim (133) of William Donaldson and John W. Scott was confirmed on the 10th March, 1806.

In further whereof I hereunto subscribe my name on this 12th January, 1842.

J. GENOIS, *Register.*

OFFICE OF THE ATTORNEY-GENERAL,
September 2*d*, 1842.

SIR: There can be no doubt, in my opinion, that the sales made to preemptioners within the (admitted or ascertained) limits of the Houmas claim are entirely void under the 6th section of the act of 1811. But Commissioner Graham's order proceeded on the assumption that the lands he offered for sale were not included within the bounds of that claim. Commissioner Brown, without conceding its validity to its whole extent, seems to have admitted that it had been regularly preferred before the commissioners to that extent. I am not yet prepared from any information I possess to speak to this fact. I only answer hypothetically,
383 assuming the lands in question to be within the claim as propounded to the commissioners under the acts of 1805, 1806, and 1807, the Executive clearly had no authority to dispose of them without a special act of Congress.

The Land Office will therefore refuse patents on all certificates which

they shall be satisfied fall within that category. Whether the entries not heretofore patented shall be cancelled depends upon the practice of that office, which must have been, I should think, settled long ago, and which I do not wish or mean to disturb.

As to patents issued by Mr. Graham, I see no remedy but in the courts. If issued on lands covered by a complete Spanish grant they are of course void, and will be so declared whenever they shall be set up in an ejectment.

I should have greatly preferred to retain my opinion on this as on the other points of this case for fuller consideration, and give it now
384 only because it seems to be impatiently called for by the claimants.

I have the honor to be, sir, your obedient servant,

H. S. LEGARE.

McCLINTOCK YOUNG, Esq.,
Acting Secretary of the Treasury.

No. 61.

Patent certificate No.

[Southeastern district, State of Louisiana; land office at New Orleans.[

JANUARY 30, 1843.

It is hereby certified that in pursuance of the act of Congress passed on the 18th day of April, 1814, entitled "An act concerning certificates of confirmation of claims to lands in the State of Louisiana," William Donaldson and John W. Scott have been confirmed in their claim to a tract of land situated in the county of Acadia, numbered one hundred and thirty-three in the report of the board of commissioners for ascertaining and adjusting the titles and claims to land within the eastern district of the Territory of Orleans, at New Orleans, dated the 4th day of March,
385 1806, designated as section No. 37, township No. 8, of range No. 1 east; section No. 37, township No. 8, of range No. 2 east; section No. 82, township No. 9, of range No. 1 east; section No. 53, township No. 9, of range No. 2 east; section No. 40, township No. 9, of range No. 3 east; section No. 76, township No. 10, of range No. 2 east; section No. 6, township No. 10, of range No. 3, east, containing thirty-six thousand five hundred and eighty-two acres and nineteen hundredths of a n acre, as per plat herewith.

Now, therefore, be it known that on presentation of this certificate to the Commissioner of the General Land Office the said William Donaldson and John W. Scott shall be entitled to receive a patent for the land herein described.

PETER LAIDLAW,
Register of the Land Office.

No. 59.

Patent certificate No.

[Southeastern district, State of Louisiana; land office at New Orleans.]

JANUARY 30, 1843.

386 It is hereby certified that in pursuance of the act of Congress passed on the 18th day of April, 1814, entitled "An act concern-

ing certificates of confirmation of claims to lands in the State of Louisiana," Daniel Clark has been confirmed in his claim to a tract of land situated in the county of Acadia, numbered one hundred and twenty-seven in the report of the board of commissioners for ascertaining and adjusting the titles and claims to land within the eastern district of the territory of Orleans, at New Orleans, dated the 3d day of March, 1806, designated as section No. 38, township No. 8, of range No. 2 east; section No. 51, township No. 8, of range No. 3 east; section No. 41, township No. 9, of range No. 3 east; section No. 7, township No. 10, of range No. 3 east, containing twenty-eight thousand one hundred and seventeen acres and sixty hundredths of an acre, as per plat herewith.

Now, therefore, be it known that on presentation of this cer-
387 tificate to the Commissioner of the General Land Office the said Daniel Clark shall be entitled to receive a patent for the land above described.

PETER LAIDLAW,
Register of the Land Office.

No. 49.

TREASURY DEPARTMENT, *November* 15, 1843.

SIR: I acknowledge the receipt of your letter of the 9th instant, and the accompanying papers, in which you request a decision by the department of the question whether the Houmas claim was confirmed to the extent of a league square by the act of April 12, 1814. I have to state in reply that the remark to which you refer in my decision of Mr. May's case was hypothetical. The claim presented by Mr. May was disposed of on the assumption for which he contended, that Commissioner Graham was wrong in making the sales, and that they were unauthorized and void. Assuming that ground, the act of 1825 would not authorize the Secretary of the Treasury to refund, except another point was settled by him,
388 viz, that the United States had no title. This I refused to decide.

Now, all this had nothing to do with determining the limits of the Houmas claim, be they more or less. That claim has been confirmed to a certain extent or it has not. If not at all, then the title of the United States is not shown to be defective as to any part; if confirmed to a certain extent, and the sales by Commissioner Graham were without the limits of the claim as confirmed, they were authorized. But I have not determined, nor will I undertake to determine, to what extent the Houmas claim has been confirmed. This is for the courts of law or for Congress to decide.

The letter from the Commissioner of the General Land Office to yourself, under date of the 8th instant, is herewith returned.

Respectfully, your obedient servant,

J. C. SPENCER,
Secretary of the Treasury.

SAMUEL D. KING, Esq.,
Washington, D. C.

389 No. 70.

NEW ORLEANS, *September* 23, 1844.

SIR: Understanding that the department have at last concluded to issue patants for the land claimed under the Houmas grant, I must beg you in causing them to be issued to direct that the claim of William Conway, No. 125, be patented according to the confirmation, and not according to the plats and surveys which I have seen, extending back on the lower line only to the Acadien bayou or Odd River.

All the old titles as well as the confirmation extend that line to Lake Maurepas.

I enclose a copy of the original plat, though I think you have many in your office; and, if so, please to deliver these to the Hon. Wm. Cost Johnson, for in fact they belong to a suit pending before the Supreme Court, the title of which is marked on their back.

I beg leave to ask if in issuing the patent some copies could not be
390 sent at the expense of the parties wishing them, as there are at this time eight or ten of us interested in this confirmation.

I am, with great respect, your obedient servant,

ISAAC T. PRESTON.

To the COMMISSIONER OF THE GENERAL LAND OFFICE.

No. 69.

WASHINGTON, *October* 19*th*, 1844.

SIR: As attorney of many of the owners of that portion of the Houmas land claim known as the William Conway portion, I am instructed to apply for patents for that portion as well as the two other portions for which I have received patents in great part.

Prior to Judge Bibb's decision in favor of the claim, the Land Office required the register at New Orleans, as I am informed, to recall the certificates which he issued in favor of the Donaldson & Scott portion and D. Clark portion, and their representatives, which letter was addressed before the decision of the Secretary of the Treasury in favor of the entire
391 claim. I have now to request that you will either countermand that letter or forward the decision of the Secretary of the Treasury, so that the register at New Orleans may issue certificates prior to my more direct application for a patent for the William Conway portion.

Very respectfully, your obedient servant,

WILLIAM COST JOHNSON.

To the COMMISSIONER OF THE GENERAL LAND OFFICE.

LAND OFFICE, *New Orleans, December* 7, 1844.

SIR: The surveyor-general having returned to this office the particular plat, in the case of Wm. Conway's claim, of a portion of the Houmas grant, I have issued a patent certificate, No. 5, dated this day, in the name of William Conway, for lands designated as being in townships 8, 9, and 10 south, of ranges 3, 4, 5, and 6 east, containing 123,516.90, as per plat attached, situated in the county of Acadia, report by the old board
392 of commissioners of the southeastern district of the Territory of Orleans, on the 3d March, 1806, per certificate 125 in said report,

confirmed by an act of Congress entitled "An act concerning certificates of confirmation of claims to lands in the State of Louisiana," approved April 18, 1814.

I have the honor to be, sir, very respectfully, your obedient servant,

PETER LAIDLAW, *Register.*

THOMAS H. BLAKE, Esq.,
Commissioner of the General Land Office, Washington.

Patent certificate No. 5.

[Land office, at new office, State of Louisiana.]

DECEMBER 7, 1844.

It is hereby certified that, in pursuance of the act of Congress passed on the 18th day of April, 1814, entitled "An act concerning certificates of confirmation of claims to lands in the State of Louisiana," William Conway has been confirmed in his claim to a tract of land situated in the county of Acadia, numbered 125 in the report of the old board of
393 commissioners, southeastern district, Orleans Territory, dated the 3d day of March, 1806, designated as being in townships Nos. eight, nine, and ten south, of ranges three, four, five, and six east, containing 123,516.90 acres, as per plat herewith.

Now, therefore, be it known that, on presentation of this certificate to the Commissioner of the General Land Office, William Conway shall be entitled to receive a patent for the land above described, situate east of the Mississippi River.

PETER LAIDLAW,
Register of the Land Office.

STATE OF LOUISIANA,
Parish of Orleans.

I do solemnly swear that the foregoing fifteen pages contain true and exact copies made by me from the printed documents appearing in Senate Document No. 45, of the 28th Congress, 2d session, being entitled "Report of the Secretary of the Treasury, communicating (in compli-
394 ance with a resolution of the Senate) information in relation to the claim to land in the State of Louisiana, called the Houmas claim.

(Signed) W. H. WRIGHT.

Subscribed & sworn before me, April 20th, 1882.

(Signed) T. V. COPELAND,
Comm'r U. S. Circuit Court, Eastern Dist. of Louisiana.

Copy of letter from the Comm'r of the General Land Office to the surveyor-gen'l at New Orleans, La., of May 14th, 1878, filed April 20th, 1882, in the case of Alfred Slidell et als vs. Thos. J. Emler et al., No. 9828 of the docket of this court. Offered in evidence by complainants May 1st, 1882, and mentioned as "22d" in the foregoing note of evidence.

[Refer to this initial in reply: "D."] [W. D. L., J. M. A.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., May 14, 1878.

U. S. SURVEYOR-GENERAL, *New Orleans, La.:*

395 SIR: I transmit herewith for your information and guidance, copy of the decision dated May 4th, 1878, of the honorable Secretary of the Interior in the matter of the application for a patent for that portion of the Houmas claim, in the State of Louisiana, known as the William Conway tract, in which the decision of this office, of June 22d, 1877, is modified and affirmed.

I inclose herewith a copy of the honorable Secretary's order, dated May 9th, 1878, withholding all the lands in what is known as the Houmas grant, in the late southeastern district of Louisiana, from disposal for the period of three months to allow the parties claiming said grant to institute proceedings in court for the purpose of testing the validity of their claim to the entire tract under the confirmatory act of 1858.

Respectfully,
(Signed) J. A. WILLIAMSON,
Commissioner.

OFFICE OF SURVEYOR-GENERAL,
DISTRICT OF LOUISIANA,
396 *New Orleans, April 18th,* 1882.

I certify the foregoing to be a correct copy of the original on file in this office.

[SEAL.] (Signed) JACQUES A. GLA,
Surveyor-General, La.

Copy of letter from the Comm'r of the General Land Office to the surveyor-general of La., of July 8, 1879. Filed April 20th, 1882, in the case of Alfred Slidell et als. vs. Thomas J. Emler et als., No. 9828 of the docket of this court. Offered in evidence by complainants May 1st, 1882, and mentioned as "23d" in the foregoing note of evidence.

[Refer in reply to this initial: "E."] [N. F., S. J. D.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., July 8, 1879.

O. H. BREWSTER, Esq.,
U. S. Surveyor-General, New Orleans, Louisiana:

SIR: Referring to my letter "D," dated May 14th, 1878, transmitting to you copy of the decision of the Secretary of the Interior, dated
397 May 4, 1878, in reference to the depth to which the Houmas grant was confirmed and valid, I now transmit herewith enclosed copy of the order of the Secretary of the Interior, dated June 21st, 1879, instructing this office to carry into effect said decision of May 4th, 1878, so far as it relates to the Conway portion of said grant.

As the tract embraces several townships which are wholly or partially

unsurveyed, you are requested, if the amount of appropriation assigned to your district will admit of it, to contract for the survey of the unsurveyed lands within the Conway tract and outside of the forty-two arpents in depth, or in rear of the same.

If the course of the river has changed since the original survey of this claim, by abrasions or accretions, it will be necessary to measure off the forty arpents so as to locate the lines of the claim with a depth of
398 forty-two arpents from the river, as it was when the claim was formerly surveyed.

Very respectfully.

(Signed) A. WILLIAMSON,
Commissioner.

OFFICE OF SURVEYOR-GENERAL,
DISTRICT OF LOUISIANA,
New Orleans, April 18th, 1882.

I certify the foregoing to be a correct copy of the orignal on file in this office.

[SEAL.] (Signed) JACQUES A. GLA,
Surveyor-General La.

Copy of letter from the Comm'r of the General Land Office to the surveyor-general of La., of June 22, 1877, being his decision on the Wm. Conway claim. Filed April 20th, 1882, in the case of Alfred Slidell et als. vs. Thomas J. Emler, et al., No. 9828 of the docket of this court. Offered in evidence by complainants May 1st, 1882, and mentioned in the foregoing note of evidence as "24th."

[Refer in reply to this initial, "D." J. M. A.] [J. W. B.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
399 *Washington D. C., June 22, 1877.*

U. S. SURVEYOR-GENERAL,
New Orleans, La.:

SIR: Application has been made to this office for the issue of patent under the second section of the act of June 2, 1858 (Stats. 11, p. 294), upon New Orleans, La., patent certificate number 125, dated November 15th, 1858, for the private land claim of William Conway, number 125, in the report of the old board of commissioners for the adjustment of land claims in the eastern district of Louisiana, appointed under the act of March 2d, 1805 (Am. St. Papers, vol. 2, p. 287), designated as being in townships numbers 8, 9, 10, south, of ranges 3, 4, 5, 6 east, southeastern district Louisiana, containing $123{,}516\frac{90}{100}$ acres.

Under date of January 11th, 1859, upon an application for patent for the tract of land claimed by William Conway under the provisions of the aforesaid act of June 2d, 1858, this office held that said claim was
400 confirmed by said act, and the confirmees entitled to a patent therefor, and submitted the matter to the department for instructions in the premises. While the case was pending before the department in this form Congress passed an act, approved June 21, 1860, repealing

said confirmatory act of 1858, and on the 10th of the following December the Secretary of the Interior returned the case without taking any action thereon further than to refer to the action of Congress in the premises. The application now pending will therefore have to be considered in connection with the legislation subsequent in date to the action heretofore had in the matter by this office.

The tracts referred to are part of a tract of land commonly called the "Houmas grant." While France held the dominion and possession of Louisiana, and before the cession to Spain, a grant was made by the ancient French Government to the Bayou Goula and Houma Indians of a tract of land measuring upwards of half a league in
401 front on the Mississippi River. In 1773 Maurice Conway and Alexander Latil purchased this land of the Indians, and in 1774 a grant was made to them of said land by Unzaga, then Spanish governor of Louisiana, with the common depth of forty arpents.

On the 9th of September, 1776, Maurice Conway petitioned the governor for an additional grant in the rear, stating that it was his intention to establish himself in the upper part of the country, on the land which he had purchased jointly with Alexander Latil, with the permission of the governor, from the Houmas Indians, alleging that the land so purchased was extremely deficient of fences and was cleared out upwards of a league in depth, so that the cypress swamp being at a distance of about one league and a half from the river, he had no right thereto in consequence of the governor having granted him but "the common depth of forty arpents," which was so short that he could not reach
402 the cypress trees necessary for making fences and other work absolutely necessary on a plantation, and praying that the governor would grant him "all the depth which may be vacant immediately after the said depth of forty arpents," averring that he was the sole proprietor of said first depth, having purchased the moiety which belonged to Latil.

On the 27th of September, 1776, Unzaga, in pursuance of this petition, ordered that Captain Louis Andry go upon the land mentioned in Conway's petition and put the petitioner in the possession "of the land which may there be vacant on the back of the forty arpents of depth which he possesses, and running in the same directions, provided the same be vacant and do not injure the neighbors, to the effect of which he shall set and mark the boundaries, and shall extend after this decree a process verbal of his operations, which, signed by him and the said neighbors,"
403 should be forwarded to him, the said Unzaga, that he might "cause the complete title to issue."

In the month of October following, Andry made a survey of the land in presence of Don Louis Judice, the commandant of the post of La Fourche; Maurice Conway, the proprietors of the adjacent lands, and the chief of the Houmas and Bayou Goulas.

He first examined the boundaries of the front tract, and found the stakes and land-marks the same as he had himself placed there in 1773, and ran in the direction of the upper and lower lines, two arpents in rear of first depth of forty arpents, making the upper and lower lines forty-two arpents in length, at which distance he placed other posts, describing their height and the wood of which they were made; and on the 21st June, 1777, Governor Galvez, in pursuance of what had been done in the premises

under the orders of his predecessor, Unzaga, made out a formal
404 title or concession in favor of Maurice Conway, by which he granted to Conway, in the name of the King of Spain, the "land behind or at the end (or in the rear) of the forty arpents which contain his plantation, situated in the district of La Fourche, by ninety six arpents in front on the river, following the same direction which those run," etc.

The back limit of the vacant lands, so granted to Maurice Conway in 1777, was not absolutely fixed by Andry or Galvez in the act of concession. It appears, however, that Conway subsequently claimed all the land in rear of his first depth to Lake Maurepas and the Amite River; and in 1798, at a public succession sale made under the orders of Don Juan Ventura Morales, the intendent of the province, of a portion of the lands claimed by William Conway, which had been purchased of him by Col. S. Maxent, the property was described as having a front of twenty-nine arpents with "upwards of four leagues in depth."

405 The territory formerly known as the province of Louisiana was acquired by the United States by the treaty concluded at Paris April 30th, 1803, and was formally delivered to the United States on the 20th of December of the same year. It was stipulated by the treaty that the inhabitants of the province should be incorporated into the Union, and be admitted to the rights of citizenship as soon as possible, and that "in the mean time they shall be maintained and protected in the free enjoyment of their liberty, property, and religion they profess."

In anticipation of the delivery of the Territory, Congress passed the act of the 31st of October, 1803, entitled "An act to enable the President of the United States to take possession of the Territories ceded by France to the United States, and for the temporary government thereof" (2 Stats., p. 245), the second section of which provides "that until the expiration
406 of the present session of Congress, unless provision for the temporary government of the said Territories be sooner made by Congress, all the military, civil, and judicial powers exercised by the officers of the existing government of the same shall be vested in such person and persons, and shall be exercised in such manner as the President of the United States shall direct for maintaining and protecting the inhabitants of Louisiana in the free enjoyment of their liberty, property, and religion," and William C. C. Claiborne was appointed governor of Louisiana.

Soon after the appointment of the governor, William Donaldson, William Marener, and Patrick Conway, describing themselves as owners of a tract of land called the Houmas, presented their petition to Governor Claiborne, stating the grant to Maurice Conway, and that, "being desirous of ascertaining the outlines and boundaries of the said lands with such precision as to avoid any interference with the proprietors of the neighboring
407 grants, and thereby prevent expensive disputes, humbly pray that your excellency will be pleased to permit the said William Marener, or such other person as may be appointed for that purpose, to survey the said tract of land and mark the boundaries thereof; and at the same time that direction may be given to the proprietors of the adjoining patents to show their boundaries to the said surveyor, that he may avoid any interference therewith, and to the commandant of the district to protect him from all legal disturbances in the prosecution of said work" (Senate Doc. No. 45, 2nd session 28th Congress, p. 20), whereupon the governor

said confirmatory act of 1858, and on the 10th of the following December the Secretary of the Interior returned the case without taking any action thereon further than to refer to the action of Congress in the premises. The application now pending will therefore have to be considered in connection with the legislation subsequent in date to the action heretofore had in the matter by this office.

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made the following order: "The proprietors of land adjoining the tract within mentioned are requested to show their respective boundaries, and the commandant of the district, if necessary, will extend to the surveyor his protection."

It appears that a survey was made of the Conway tract in 1806,
408 by Barthelme Lafon, a deputy surveyor under Isaac Brigs, surveyor-general south of Tennessee, giving the claim a front of 27 arpents on the Mississippi River, running back to Lake Maurepas, a distance of 455 arpents, and to the Amite River, a distance of 351 arpents (see Senate Doc. No. 45, 2d session 28th Congress, p. 6). On the 2d March, 1805, Congress passed an act entitled "An act for ascertaining and adjusting the titles and claims to land within the Territory of Orleans and the district of Louisiana" (Stats., vol. 2, p. 324), which provided for a board of commissioners, to be composed of the register for the district, and two other persons, to be appointed by the President, to hear and decide on claims founded on French or Spanish grants made and completed before October 1st, 1800, the date of the treaty of San Ildefonso, and also on other specified classes of claims.

The fifth section of said act provides that "each board or a majority of each board shall, in their respective districts, have power to hear
409 and decide, in a summary manner, all matters respecting such claims;" * * * that "it shall likewise be the duty of the said commissioners to make to the Secretary of the Treasury a full report of all the claims filed with the register of the proper land office, or recorder of land titles, as above directed, which may have been rejected, together with the substance of the evidence adduced in support thereof, and such remarks thereon as they may think proper; which reports, together with the transcripts of the decisions of the commissioners in favor of the claimants, shall be laid by the Secretary of the Treasury before Congress at their next ensuing meeting."

The sixth section of said act of March 2d, 1805, authorized the Secretary of the Treasury to employ an agent for each board, "for the purpose of appearing before the commissioners in behalf of the United States, to investigate the claims for lands, and to oppose all such as said agents
410 may deem fraudulent and unfounded."

Under this act William Conway, claiming under the grant to Maurice Conway, presented his claim to the commissioners, accompanied by the grant to Maurice Conway, together with the plat and certificate of survey made by Lafon, bearing date 20th of February, 1806. This certificate of survey states that the plat conforms to surveys executed by Andry, surveyor, in March, 1804, and those which he, Lafon, made in December, 1803, and make the front twenty-seven arpents, and the depth extending back to the river Amite and Lake Maurepas.

The board, appointed in pursuance of said act, considered the claim of Conway, and its finding is as follows:

"No. 125. William Conway claims a tract of land situated in the county of Acadia, at a place called Houmas, on the left bank of the Mississippi, containing twenty-two and a half arpents in front, with an opening towards the rear of sixty degrees forty-five minutes, the upper
411 line running north 9° 25′ E. three hundred and fifty-one arpents, and the lower line directed N. 70 E., and measuring four hundred

and fifty-five arpents, bounded on the upper side by Daniel Clak's land, and on the lower side by land of Simon Laveau.

"It appearing to the board, from a patent or complete title exhibited, that seventeen arpents of front were, together with a greater quantity, granted by the Spanish Government to Maurice Conway, 21st June, 1777, and it appearing that the five and a half arpents of front remaining of the land aforesaid was purchased by Pierre Part at the public sale of the estate of the late Joachim Mire (alias Belony) on the 7th day of December, 1788, and it further appearing to the board, from the several instruments of conveyance offered in testimony, that the two tracts of land aforesaid, have been conveyed to the present claimant, the board do hereby confirm his claim af'd."

The fourth section of the act of March 3d, 1807, entitled
412 "An act respecting claims to land in the Territories of Orleans and Louisiana" (Stats. vol. 2, p. 440), conferred upon the commissioners, appointed as aforesaid, authority to decide, "according the laws and established usages of the French and Spanish governments, upon all claims to lands within their respective districts," where the claim was made by any person or the legal representatives of any person or persons who were, on the the twentieth of December, one thousand eight hundred and three, inhabitants of Louisiana, and for a tract not exceeding the quantity of acres contained in a league square, and which does not include either a lead mine or salt spring, which decisions of the commissioners, when in favor of the claimant, shall be final against the United States, any act of Congress to the contrary nothwithstanding."

As this claim exceeded the quantity of acres contained in a league square, a confirmation of the same by the commissioners, under the
413 fourth section of the aforesaid act, March 3d, 1807, would have been void. (See decision of Hon. Secretary of the Interior, March 1st, 1875, in the Malines case). But it appears that it was presented and acted upon under the act of March 2d, 1805, and was classed in the "second species of the first class of decisions" which were laid before Congress by the Hon. Secretary of the Treasury on the 8th of January, 1812.

The claim, as presented to the commissioners, was regarded by them as a complete title under a patent from the Spanish Government for the whole tract, containing 22½ arpents in front with an opening towards the rear of sixty degrees forty-five minutes, the upper line running north nine degrees fifteen minutes east three hundred and fifty-one arpents, and on the lower line directed north, seventy degrees east, and measuring four hundred and fifty-five arpents.

If this was a complete patented grant to the extent claimed, it did not require legislative confirmation, as it would be protected by the third
414 article of the treaty of cession. (U. S. vs. Wiggins; 14 Peters, 344.)

On the 17th of February, 1829, Commissioner Graham imposed a limitation in making the survey of the Houmas claim to a league and a half in depth, and so the survey was made, and between the rear lines fixed under Commissioner Graham's order and the Amite River numerous sales were made as public land. In June, 1836, Commissioner Brown instructed the register at New Orleans that "although his office cannot recognize the claim as confirmed under any circumstances to the extent contended for by

the parties interested, yet as the law prohibits the sale of any lands to which a claim was filed, in due time and according to law with the commissioners, for the purpose of being examined, the sale of any portion of the land within the limits claimed at the time of filing the same with the commissioners is unauthorized."

On the 12th of August, 1844, the Hon. Secretary of the Treas-
415 ury, Mr. Bibb, decided that pursuant to the act of 18th April, 1814, patents should issue for the full extent of the claim, extending from the Mississippi on the front, back to the Amite River, and patents were issued accordingly for the Donaldson & Scott and Daniel Clark portions thereof, August 22d, 1844.

On the 26th of June, 1846, Congress passed a joint resolution (U. S. Stats., 9, p. 110), in pursuance of which Attorney-General Clifford examined this claim, and gave it as his opinion:

"1. That the grant to Maurice Conway is a complete and perfect Spanish grant to the extent of forty-two arpents from the river, and no more; that the said grant does not convey any lands beyond that extent, but that the title to the same is vested in the United States.

"2. That the patents which have been issued in the case of the Donaldson and Scott claim and the Clark claim, were so issued without authority of law, and are therefore void and of no effect."

416 In 1849, under the direction of the President, the district attorney filed bills in chancery in the U. S. circuit court at New Orleans, one against Daniel Clark et al., and the other against Donaldson and Scott et al., to set aside the above-mentioned patents, on the ground that they were issued without authority of law; and on 2d of December, 1856, the court rendered its decision in favor of the United States, and vacating said patents, but the court did not express any opinion as to the validity of the grant.

Congress passed an act, which was approved June 2d, 1858, entitled "An act to provide for the location of certain confirmed private land claims in the State of Missouri, and for other purposes," the second section of which provides that "the decision in favor of land claimants made by P. Grimes, Joshua Lewis, and Thomas B. Robertson, commissioners appointed to adjust private land claims in the eastern district
417 of the Territory of Orleans communicated to the House of Representatives by the Secretary of the Treasury on the ninth day of January, one thousand eight hundred and twelve, and which is [are] found in the American State Papers—Public Lands (Duff Green's edition), volume two, from page two hundred and twenty-four to three hundred and sixty-seven, inclusive—be, and the same are hereby, confirmed, saving and reserving, however, to all adverse claimants the right to assert the validity of their claims in a court or courts of justice. Provided, however, that any claim so recommended for confirmation, but which may have been rejected in whole or in part by any subsequent board of commissioners, be, and the same is hereby, especially excepted from confirmation."

The report of the commissioners on the claim of Conway appears on page 287 of volume 2, American State Papers (Duff Green's edition), within those mentioned in said confirmatory act, and the same has not been rejected by "any subsequent board of commissioners," the unfa-
418 vorable report thereon by the Commissioner and Solicitor of the

General Land Office not being considered as the action of a board of commissioners.

The report shows that the commissioners favorably considered the claim to its full extent; the confirmatory act of June 2, 1858, affirms it, and necessarily covers all the land thus claimed and embraced in this decision.

The case is now before me, as before stated, upon an application for patent under the second section of said act of 1858.

This section was repealed by the act of June 21, 1860 (12 Stats., p. 866), entitled "An act to repeal the second section and other portions of an act passed the second day of June, eighteen hundred and fifty-eight, entitled 'An act to provide for the location of certain confirmed private land claims in the State of Missouri, and for other purposes,' which provided
419 that the second section of the act of June 2, 1858, and all other parts of said act which relate to lands in Louisiana, confirmed by said second section (so far as said lands are concerned), be, and the same are hereby, repealed."

The second section is in the following language: "That Congress hereby refuses to confirm to the claimants under the Houmas grant the lands embraced in certificate number one hundred and twenty-five to William Conway, number one hundred and twenty-seven to Daniel Clark, and number one hundred and thirty-three to Donaldson and Scott."

It has been contended that notwithstanding the said repealing act patents should issue for the claims in question; that the act of June 2d, 1858, was to all intents and purposes a grant, and higher evidence of title than a patent; that a grant once made by a legislative body cannot be rescinded by the granting power; that the repealing act was void and of no effect, upon the ground that it divested a vested right, which was
420 in direct conflict with that provision in the Constitution which declares that no man shall be deprived of his property except by due course of law, that is, by judicial proceedings; that a party to a contract cannot pronounce it invalid, and that a grant is a contract executed. (Fletcher vs. Peck, 6 Cranch, 89.)

On the other hand, it is claimed that this act does not embrace the Houmas claims, because the favorable decisions in those cases were made, not by Grimes, Lewis, and Robertson, but by Grimes and Lewis only; that the act only relinquishes the Federal title in claims communicated to the House on the 9th of January, 1812, as the letter of Mr. Gallatin of that date mentioned, claims only which had not been confirmed by the commissioners; that the second section of the act of June 21st, 1860, shows that Congress never intended to confirm the Houmas claim by the act of 1858; that admitting the Houmas claim to be confirmed
421 by the act of 1858, the confirmation cannot effect prior conflicting sales or donations by the United States, unless the back concession of the Houmas tract is a perfect title under the law of nations, or under the treaty of Paris of 30th April, 1803, or is a confirmed title under an act of Congress.

The action of a majority of the board, under the act of March 2d, 1805, and March 3d, 1807, was all that was necessary; and when Congress, by the act of 1858, declared "that the decisions in favor of land claimants made by P. Grimes, Joshua Lewis, and Thomas B. Robertson" to be con-

firmed they did not intend that each particular decision embraced in their report should have received the favorable action of each of the above-named gentlemen, but spoke of the "decisions" in general terms, meaning all the decisions, some of which were made by Grimes, Lewis, and Robertson, and some by Lewis and Robertson, and some by Grimes and Robertson only.

422 As to the next objection, while the letter of the Secretary of the Treasury, transmitting the reports of the commissioners to Congress, did not refer specifically to the claims which had been confirmed by the commissioners, but only to those which had not been so confirmed by them, yet the reports transmitted embraced claims confirmed as well as those rejected; and the claim of Conway, upon which the commissioners made a favorable report, having been embraced in that report, within the pages in the American State Papers, mentioned by the said act of 1858, was confirmed thereby.

As to the other objections, I find that by the second proviso of the sixth section of the act of March 3d, 1811, entitled "An act providing for the final adjustment of claims to lands, and for the sale of public lands in the territories of Orleans and Louisiana, and to repeal the act passed for the same purpose, and approved February sixteenth, one thousand

423 eight hundred and eleven," it is provided that "till after the final decision of Congress thereon no tract of land shall be offered for sale the claim to which has been in due time and according to law presented to the register of the land office, and filed in his office for the purpose of being investigated by the commissioners appointed for the purpose of ascertaining the rights of persons claiming lands in the Territory of Orleans," etc., etc. "No tract of land the claim to which had been presented to the register," etc., is the language of the act. Conway presented his claim to the register for the whole tract claimed, and until the final action thereon by Congress no part thereof was subject to sale or disposition by the government under the above section of the act of 1811.

The act of 18th April, 1814, was not such final action by Congress, as it embraced only claims founded upon incomplete titles, as decided

424 by the court, setting aside the patents issued thereunder for portions of the Houmas grant; and no such final action was had by Congress upon this claim until the passage of the act of 1858, and the repealing act of June 21, 1860. Following the suggestions of the Hon. Secretary of the Interior in the case of Maria Malines (March 1, 1875), I am free to express the opinion that this claim was confirmed by the act of June 2, 1858, to the full extent claimed; but I cannot disregard the action of Congress repealing said act, and declaring that it refuses to confirm the Houmas claim. This repealing act received the approval of the Executive, and is binding on all the executive branches of the government. Under these circumstances, it is not within the province of this office to pass upon the constitutionality of an act of Congress, but to execute the statute according to its terms.

Taking into consideration the repealing act, together with the

425 joint resolution of March, 1859, suspending the operation and effect of the second section of the act of June 2, 1858, until the end of the Twenty-sixth Congress, and directing "that no patent or patents shall be issued, nor shall any action be had by the executive branch or depart-

ment of the government, or any officer or agent thereof, under or by virtue of said section," I am of the opinion that patent cannot issue for this claim under the act of June 2, 1858, and that the repealing act of June 21, 1860, was such final action by Congress upon the Houmas grant as was contemplated by the act of March 3, 1811, and that all the land embraced in said claim outside of the limits of the grant as made by the Spanish Government in 1774, not otherwise appropriated, is the property of the United States.

This brings us to the consideration of the question as to the extent of the grant by Galvez to Maurice Conway in 1777. There can be no
426 doubt that this was a complete Spanish grant to the extent of at least forty-two arpents from the river, with the front called for in the survey by Andry. Attorney-General Clifford, in his opinion of December 31, 1847, was of the opinion that the grant to Maurice Conway by Galvez could not be recognized as extending farther than forty-two arpents from the river, or, in other words, it should be confined within the lines actually run by Andry in October, 1776. Conflicting opinions have been entertained upon this subject. Commissioner Graham, in 1829, inclined to the opinion that the claim should be recognized to the extent of one and a half leagues depth, which gives to each of the claimants before the board of commissioners about the quantity embraced in a league square upon the ground. I suppose that the commissioners had jurisdiction to confirm claims to that extent, and no more, and hence it was confirmed to that extent. But the Hon. Secretary of the Interior, in his decision in the
427 Malines case, before referred to, held that the commissioners having exceeded their jurisdiction by confirming a claim to a greater extent than a league square, under the fourth section of the act of March 3, 1807, rendered such pretended confirmation null and void, and could not be recognized as a valid confirmation for a less quantity.

With due respect for the learning and ability of the late Attorney-General Clifford, I must differ from him as to the depth of this grant. I am of opinion that the government should recognize this claim as a complete Spanish grant for the front called for in the petition presented to the commissioners, with a depth of eighty arpents from the river. True, the line run by Andry extended back from the river but forty-two arpents; but taking into consideration the language of the petition, certificate of Andry, the grant, and the custom of the Spanish Government at the time the grant was made, I cannot think otherwise than that it was the intention
428 of the Spanish authorities to grant to Conway what was commonly called a second depth; that is, an additional depth of forty arpents immediately in the rear of his first depth, or forty arpents, if so much land could be found which had not otherwise been appropriated.

Conway owned a first depth, or forty arpents, on the river, and his petition reads: "I humbly pray your Excellency to take the circumstances into consideration, and to grant me all the depth which may be vacant behind or at the end of the aforesaid forty-two arpents of depth, whereof I am at present the sole owner," etc., etc.

Andry ran the line of the first depth or forty arpents, "and at two arpents further from the river, * * * in order to keep the course." (See Andry's certificate of survey.) Bernardo De Galvez, governor of Louisiana, "having seen the proceedings of the second adjutant." * *

"Captain Louis Andry, relative to the possession by him given to
429 Maurice Conway," * * * "and finding them to be conformable to the rules of survey and agreeable to the concessions of the adjoining inhabitants," etc., granted "in his royal name to the said Maurice Conway the aforesaid land behind or at the end of the forty arpents, which contain his plantation, situated in the district of Lafourche, by ninety-six in front on the river, following the same direction which those run, in order that it, being his own property, he may share and dispose of same, ruling himself upon the aforesaid proceedings and observing the conditions prescribed in the ordinance relative to this subject."

In an affidavit made by Augustin S. Philps, late a United States deputy surveyor for the State of Louisiana, he says: "In the period, grants were usually, or almost universally, given to settlers fronting on rivers or other water course calling for a specified distance of front on the bank of the water course, with side lines running back from the front and
430 nearly at right angles with the water front at the point of departure to a distance of forty arpents, equal in our measure to $116\frac{36}{100}$ English chains. A right line connecting these two points completed the boundary of the tract, without specifying or having reference to the superficial quantity, which was seldom or ever mentioned in either the grant, plat, or proces verbal of survey." As the settlements in the colony extended and increased, double concession grants as they were called were given, bounded by a grant or grants in front with an extension of the side lines of the tract in front of them to an addition of forty arpents, usually, but frequently, especially in the vicinity of New Orleans, to the lake or some water course in the rear, and sometimes to an indefinite distance. (See testimony of Philps, p. 86, Senate Com. Rep. No. 150, 1st Sess., 36th Congress.)

Allen D. Hemecourt and L. Bringier, surveyors, testified (see same doc., pp. 88 and 89) that "it was the custom of these old surveyors in
431 surveying a piece of land not to trace out every line of the tract and run out the side lines to their extreme limits, but simply to establish the front line and run the side lines back two or three arpents, so as simply to establish their proper course and direction."

This was done also in surveying tracts bordering on the river bank.

The same witnesses also state that the expression "all the depth which may be found" is a common and usual one in sales under the Spanish Government; but the usual one was "as far back as the lake," or "as far back as the prairies inondées," inundated prairies.

If the claim be limited to forty-two arpents from the river, it would limit the second depth, or back concession, to two arpents, a limitation that I have been unable to find in any similar grant, except where no more depth could be found by reason of coming in contact with other grants or water courses. Neither was it usual to make grants of the depth
432 claimed by the claimants under the Houmas grant. The entire description in the patent must be taken and the identity of the land ascertained by a reasonable construction of the language used. (11 Greenleaf Ev., 301.) In this case the petition was for all the depth which might be found, the order of survey and grant follow nearly the same terms. The survey, of course, only ran out the lines of the first depth, and following the course of the side lines of said depth two arpents from the ter-

mination thereof set posts, as the surveyor says, to keep the course, clearly indicating that he did not intend this to limit the claim.

We must take into consideration the surrounding circumstances, the customs that prevailed when the grant was made, and the manner of surveying the same. If we then assume the term "all the depth that can be found" to mean till the depth which can be found from one stream or water course to another, then there are several water courses be-
433 tween the Mississippi River and Bayou Manchac and Amite River in the vicinity of this grant; for instance, Bayou Conway and New River, and the question would arise which of these water-courses should be taken as a boundary. But there is no reference made to any stream or water course in the concessions, certificates of survey, grant, or any of the proceedings relative thereto, until the claimants petitioned Governor Claiborne for a survey of their land. Nearly all the grants in the vicinity of this claim were for the uniform depth of forty and eighty arpents, and by a glance at the surveys of grants in the vicinity of this claim it will be seen that nearly all the concessions for eighty arpents are double or back concessions, plainly indicating that each forty arpents in depth was a distinct and separate grant and survey.

Again, this grant was made at a time when the regulations of O'Rielly were in force, by which no grant could exceed a leag'e square (see
434 American State Papers, vol. 5, p. 289), and the governor had no power to make a grant to the extent claimed before the *the* board of commissioners. "If such construction can be given to the grant as will make it consistent with his duty, it should be given." (Op. Solicitor General Land Office, Dec. 2, 1837.) "The depth asked for was the remainder of the depth of the Houmas grant after the front of forty arpents were taken, or eighty arpents." (Ibid.) "Give the word depth the same technical meaning which it received in that country and there is no ambiguity. The grant can be thus sustained; it does not impugn the conduct of the officers and precludes the absolute necessity of declariug the title altogether void." (Ibid.) J. P. Turner, surveyor, in a communication to the Commissioner of the General Land Office, dated the 13th of February, 1829, stated that he had learned "while in New Orleans that the present claimant of the Houmas grant did not purchase or pay for a greater
435 depth running back from the river than eighty arpents from the confirmees of said grant, and that the heirs of the confirmees brought suit to recover for the whole extent of the claims and lost it in a court of justice."

Considering all the circumstances surrounding this case, as hereinbefore stated, I am of the opinion, and so decide:

1st. That the act of June 21, 1860, repealing the act of June 2d, 1858, which confirmed this claim, operates as a bar to the issue of patent for the claim under said act.

2nd. That that portion of the tract of land claimed, fronting on the Mississippi River, and bounded on the west by the claim of Daniel Clark, and on the southeast by the claim of Simon Leveau, to the extent of eighty arpents in depth, and no more, from the said river, is covered by a complete Spanish patented grant, and hence protected by the treaty of April 30th, 1803, which guaranteed to the inhabitants of the ceded territory the free enjoyment of their liberty, property, etc. (Maguire vs. Tyler,

436 8th Wallace, 652; United States vs. Wiggins, 14 Peters, 334, and Fremont vs. The United States, 17 Howard, 542.)

3d. That the act of June 21, 1860, before referred to, is such final action by Congress upon this claim as embraced in the Commissioner's report as was contemplated by the act of March 3, 1811, and that all the land claimed back of the double concession, or eighty arpents, not otherwise disposed of, is public land of the United States, and subject to all the rules governing the survey and disposition of the public domain.

You are therefore instructed that when the public surveys are extended over this claim to set apart that portion of the claim herein decided as valid and entitled to recognition by the United States in accordance with the aforesaid description thereof.

You will notify all parties in interest of the purport of this decision, and allow sixty days from the service of notice for appeal to the Hon. Secretary of the Interior, and at the expiration of that period you
437 will make the usual report to this office.

Very respectfully,

(Signed) J. A. WILLIAMSON,
Commissioner.

OFFICE OF SURVEYOR-GENERAL,
DISTRICT OF LOUISIANA,
New Orleans, April 18th, 1882.

I certify the foregoing to be a correct copy of the original on file in this office.

[SEAL.] (Signed) JACQUES A. GLA,
Surveyor-General La.

Letter from the surveyor-general of the United States for La. to James L. Bradford, of April 27th, 1882. Filed April 28th, 1882, in the case of Alfred Slidell et als. vs. Thomas J. Emler et al., No. 9828 of the docket of this court. Offered in evidence by complainants May 1st, 1882, and mentioned as "25th" in the foregoing note of evidence.

SURVEYOR-GENERAL'S OFFICE,
DISTRICT OF LOUISIANA,
New Orleans, April 27th, 1882.

JAMES L. BRADFORD, Esq.,
Att'y & Counsellor at Law:

438 SIR: This office in receipt of your letter of the 11th inst. asking if the United States have ever made any surveys in the claimed limits of the William Conway division of the Houmas grant under the "radiating lot system," as provided by the act of Congress of March 3d, 1811, and 24' May, 1824.

In reply, I have to inform you that no such surveys have ever been made in this claim, but that, so far as the lands within the same have been surveyed, it has been done under the usual rectangular system.

I have further to state, in reply to your question, that all selections of swamp lands heretofore made by this office in said claim have been made under the act of Congress of 2d March, 1849, the act of 28th Sept., 1850, being construed to extend in Louisiana only to such swamp lands

as were not embraced by the grant of 1849, viz, those theretofore surveyed under the radiating lot system, under the said acts of 1811 & 1824.

As such swamp lands, so surveyed prior to the 2d March, 1849, were the only ones excepted from the grant made on that day to Louisiana, the subsequent general grant of 1850 could attach to no other lands in this State, and hence this office, in administering these two acts, has always held the latter act to apply only to lands excepted out of the grant of 1849.

Very respectfully,
(Signed) JACQUES A. GLA,
Surveyor-Gen'l La.

439 Original letter from the surveyor-general of the United States for Louisiana to J. L. Bradford, of April 27th, 1882. Filed April 28th, 1882, in the case of Alfred Slidell et als. vs. Thomas J. Emler et als., No. 9828 of the docket of this court. Offered in evidence by complainants May 1st, 1882; mentioned as "26" in foregoing note of evidence.

[J. A. Gla, surveyor-general; Louis Palms, chief clerk. Office: Custom-house building.]

SURVEYOR-GENERAL'S OFFICE,
DISTRICT OF LOUISIANA,
New Orleans, April 27th, 1882.

JAMES L. BRADFORD, Esq.,
Att'y at Law:

SIR: In reply to your letter of the 24th ulto., applying for a certified copy of the patent plat and attached field notes of the claim of William Conway, old board, eastern dist., No. 125, as certified by F. D. Newcomb, surveyor-general, on the 25th November, 1844, I have to inform you that the original has been so mutilated that a copy of the whole instrument cannot be given. The plat has been cut off and removed from the main body of the instrument, leaving nearly the whole of the notes of survey intact.

The certificate of the surveyor-general of 5th November, 1844,
440 remains, and the signature of F. D. Newcomb, then surveyor-general, signed to the certificate, is still in a state of preservation. This office is not in possession of any information explaining or accounting for the removal of the plat. I have caused a very thorough search to be made for the missing part, but without success.

Very respectfully,
(Signed) JACQUES A. GLA,
Surveyor-General La.

Document certified by the Secretary of the Treasury, April 21st, 1882, as containing true copies of: 1°. Letter from the Secretary of the Treasury to the Commissioner of the General Land Office of 31st Oct., 1840. 2°. Letter from the Secretary of the Treasury to Samuel D. King of 15th November, 1843. 3°. Letter from the Secretary of the Treasury to the Commissioner of the General Land Office of 12th Aug., 1844. Filed

April 27th, 1882, in the case of Alfred Slidell et als. vs. Thomas J. Emler et als., No. 9828 of the docket of this court. Offered in evidence by complainants May 1st, 1882; mentioned as "27" in foregoing note of evidence.

441 UNITED STATES OF AMERICA:

TREASURY DEPARTMENT, *April 21st*, 1882.

Pursuant to section 882 of the Revised Statutes, I hereby certify that the annexed are true copies of original papers of record in this department.

In witness whereof I have hereunto set my hand and caused the seal of the Treasury Department to be affixed on the day and year first above written.

[SEAL.] (Signed) CHAS. F. FOLGER.

1°.] TREASURY DEPARTMENT, *Oct. 31st*, 1840.

COMMISSIONER OF THE GENERAL LAND OFFICE:

SIR: Your communication of the 3rd inst. has been received, together with the papers in the case of the Houmas grant in the State of Louisiana, and the claims alleged to conflict therewith. As the subject was before Congress last session, and action upon the same appearing to have been omitted for the want of time, I concur, as at present advised, in your suggestion that no further steps be taken in the matter until Congress shall have had further opportunity for legislative action.

442 The papers which accompanied your communication of the 3rd inst. are herewith returned, and I have also to request that you will notify the parties or their agents of the course proposed to be adopted.

Very respectfully,

LEVI WOODBURY,
Secretary of the Treasury.

2°.] TREASURY DEPARTMENT, *Nov. 15th*, 1843.

SAMUEL D. KING, Esq.,
Washington, D. C.:

SIR: I acknowledge the receipt of your letter of the 9th inst. and the accompanying papers, in which you request a decision by the department of the question whether the Houmas claim was confirmed to the extent of a league square by the act of April 12th, 1814. I have to state, in reply, that the remark to which you refer in my decision, Mr. May's case, was hypothetical. The claim presented by W. May was disposed of on the assumption for which he contended, that Commissioner Graham was wrong in making the sales, and that they were unauthorized and void.

443 Assuming that ground, the act of 1825 would not authorize the Secretary of the Treasury to refund, except another point was settled by him, viz, that the U. States had no title. This I refused to decide. Now, all this had nothing to do with determining the limits of the Houmas claim, be they more or less. That claim has been confirmed to a certain extent or it has not. If not at all, then the title of the U. States is not shown to be defective as to any part. If confirmed to a certain extent, and the sales by Commissioner Graham were without the limits of the claim as confirmed, they were authorized. But I have not determined,

nor will I undertake to determine, to what extent the Houmas claim has been confirmed. This is for the courts of law or for Congress to decide. The letter from the Commissioner of the General Land Office to yourself, under date of the 8th inst., is herewith returned.

Very respectfully, y'r ob't serv't,

J. C. SPENCER,
Secretary of the Treasury.

3°. Letter of Secretary of Treasury to Commissioner of General Land Office, of 12th Aug., 1844, marked "3°," in foregoing certi-
444 fied document is already transcribed on page 311 of this transcript.

Letter from Acting Secretary of Treasury to J. L. Bradford, of April 21st, 1882, filed April 27th, 1882, in the case of Alfred Slidell et als. vs. Thomas J. Emler et als., No. 9828 of the docket of this court, offered in evidence by complainants May 1st, 1882, mentioned as "28" in foregoing note of evidence.

N.] TREASURY DEPARTMENT, [P.
OFFICE OF THE SECRETARY,
Washington, D. C., April 21st, 1882.

J. L. BRADFORD, Esq., *New Orleans, La.:*

SIR: In compliance with your request of the 31st ult., I herewith transmit certified copies of letters of Secretary of Treasury, viz, to Commissioner of the General Land Office, dated October 31st, 1840; to Samuel D. King, dated November 15th, 1843, and to Commissioner of General Land Office, dated August 12th, 1844.

Respectfully,
(Signed) H. F. FRENCH,
Ass't Secretary.

445 Translation into English of the Spanish deed from Maurice Conway to Wm. Conway, of 27th October, 1786. Sworn to by F. B. Nunn, jr., April 27th, 1882. Filed April 28th, 1782, in the case of Alfred Slidell et als. vs. Thomas J. Emler et als., No. 9828 of the docket of this court. Offered in evidence by complainants May 1st, 1882, mentioned as "29" in foregoing note of evidence.

Know all men by these presents that I, Mr. Maurice Conway, a citizen of this city, do sell, really and effectually, unto Mr. William Conway, of this same city, an habitation of mine, situate in that part of this province known as the La Fourche, and measuring on the front, a little more or less, twenty-seven arpents, with a depth as mentioned in the title deed of cession of said land given me by his excellency Señor Conde de Galvez, as per his ordinance, dated June 21st, 1777, said land being bound in one side by lands of Mr. Patrick Conway, and on the other side by lands of Mr. Henderson, the same belonging to me through my having purchased it with the major portion of the lands of Mr. Bartholomew McNamara,
446 as per act passed before Mr. Andrew Almonaster y Roxas, the then notary public of this province, and bearing date of January 4th, 1776.

I, the said Maurice Conway, do also sell to said William Conway, in the same manner, a piece of land, situate in the same locality, having a frontage of eight arpents with a depth of forty arpents, being bounded on one side by land of Mr. Equi, and on the other side by lands that formerly belonged to Mr. Patrick Conway, the same belonging to me through my having purchased it with the major portion of the lands of Peter Landry and his two sons, Paul and Fermin, as per act passed before Mr. Louis Judice, commandant of said locality, and bearing date of October 18th, 1776, and I, the said vendor, do by these presents sell unto the said vendee the 'foresaid lands, with all their ingresses and egresses, usufruct, customs, rights, and liberties, free from all incumbrances and mortgages as I, the present annotator of them, certify to, for the sum of six hundred dollars, to me in hand paid by the said William Conway; and as the delivery of the lands does not take
447 place at present, I renounce the exception of the clause "non numerata pecunia," and execute a formal receipt by virtue of which I part with, and relinquish my right to the ownership, possession, profits, estate, and seigniory which I had and held in the said thirty-five arpents of land. And all of which I cede and convey to, and renounce in favor of, the said vendee, his heirs and assigns, so that in virtue of this instrument which I execute in his favor as evidence of actual conveyance, he may, as his own possess sell, exchange, or alienate them at his own free will; I hereby relieving him of the necessity of having any other proof than this instrument of how he acquired possession of them, and guaranteeing with any present acquired riches, and those I may hereafter acquire, as well in law as in equity, the eviction, security, and indemnification of this sale, authorizing the insertion here of the clause "the fiat of a tribunal," and renouncing all laws in my favor, with the general law that prohibits it.

And I, the said Mr. William Conway, being present at the mak-
448 ing of this instrument do hereby accept same in my favor, receiving as purchased by me for the said sum of money, and in accordance with the terms or conditions of this instrument, the said thirty-five arpents of land which I consider as delivered to me agreeably to my choice, the receipt of which I therefore formally acknowledge.

In witness whereof, this instrument is dated and signed in the city of New Orleans, on the twenty-seven' day of October, of the year seventeen hundred and eighty-six. I, the undersigned notary public, do hereby certify that I personally know the undersigned parties to this instrument, the witnesses being Dr. Joseph Adriano de la Place, Mr. Louis Lalande Depremont, and Mr. Solomon Malines, all of whom are citizens of this city.

(Signed) MAURICE CONWAY.
WILLIAM CONWAY.
Ante mi: FERNANDO RODREUGES,
Notary Public.

I certify the foregoing to be a true and correct copy of the original instrument as passed before Mr. Fernando Rodrigues, who was a
449 notary public of this city, and which remains in my possession and archives, and by petition and by command, I give the present in the city of New Orleans on December 15th, 1797.

PEDRO PEDESCLAUX,
Notary Public.

STATE OF LOUISIANA,
Parish of Orleans:

I do solemnly swear that I am well versed in the Spanish and English languages, and well qualified to make true & correct translations into English of ancient Spanish deeds of conveyance and other legal instruments; that the foregoing four pages contain a true and faithful translation into English of the Spanish deed of conveyance from Maurice Conway to William Conway of the 27th October, 1786, as made by me from a document containing a copy of said deed in Spanish, filed in evidence in the suit of Alfred Slidell et als. vs. Thomas J. Emler et als., No. 9828, U. S. circuit court for eastern dist. of La., and certified by F. A. Woolfley, clerk of said court, on the 15th February, 1882.

(Signed) F. B. NURN, JR.

Sworn to and subscribed before me this 27th day of April, 1882.

[SEAL.] (Signed) WM. H. SEYMOUR,
Notary Public.

450 *Motion to suppress the evidence of complainants in part.—Filed May 1st, 1882.*

United States circuit court, eastern dist. of La.

ALFRED SLIDELL ET AL.
vs.
LEON FRÉMAUX, REGISTER. } No. 9684.

Now comes defendants, by their counsel, Rouse & Grant, and move to suppress the following evidence adduced in this cause by complainant:

1°. The plat of the claim of Wm. Conway, dated Feb'y 6th, 1806, made by B. Lafon, and his process verbal, certified by F. A. Woolfley, clerk, because not copies from the originals, or copies from the records of the commissioners to adjust land claims; and further, because said plat was made by a private surveyor, whose acts are not binding on the Government of the United States, and because it does not appear that said plat was filed before said commission as part of the Wm. Conway claim, or as evidence to support such claim.

Admission of the complainant.—Filed May 2nd, 1882.

451 U. S. circuit court, east. dist. of La.

ALFRED SLIDELL ET ALS.
vs.
LÉON FRÉMAUX, REGISTER. } No. 9684.

Complainants admit that no suit has been brought by them or Wm. Conway, or any of his grantees, to obtain an adjudication of title under the provisions of the act of Congress of May 24th, 1824, extended to Louisiana by act of 17th June, 1844, referred to in defendant's answer.

(Signed) J. L. BRADFORD,
Counsel for Complainants.

Copy of decisions of board of commissioners on claims of Wm. Conway, Daniel Clark, and Donaldson & Scott. Certified by surveyor-general of La., May 2nd, 1882. Filed May 3rd, 1882. Offered in evidence by complainants May 1st, 1882, and marked "5½" in their list of evidence.

Page 204.

Decisions of the board of commissioners for ascertaining and adjust-
452 ing the titles and claims to land within the eastern district of the Territory of Orleans in favor of claims within said district.

* * * * * * *
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Page 225.

No. 125. William Conway claims another tract of land situated in the county of Acadia, af'd, at a place called Houmas, on the left bank of the Mississippi, containing twenty-two and a half arpents in front, with an opening towards the rear of sixty degrees forty-five minutes, the upper line running N. 9° 15 E. three hundred and fifty-one arpents, and the lower line directed N. 70° E., and measuring four hundred & fifty-five arpents, bounded on the upper side by Daniel Clark's land and on the lower by land of Simon Laneau:

It appearing to the board, from a patent or complete title exhibited, that seventeen arpents of front were, together with a greater quantity, granted by the Spanish Government to Maurice Conway, 21st June, 1777, and it appearing that the five and a half arpents front remaining of the land aforesaid were purchased by Pierre Part, at the public sale of the
453 estate of the late Joachin Mire (alias Belony), on the 7th day of December, 1788; and it further appearing to the board from two several instruments of conveyance offered in testimony that the two tracts of land af'd have been conveyed to the present claimant, the board do hereby confirm his claim af'd.

* * * * * * *

No. 127. Daniel Clark claims another tract of land, situated in the county of Acadia, at a place called the Houmas, containing ten acres in front, on the left of the Mississippi, and running back the river Amite, bounded on the upper side by land of Donaldson & Scott, and on the lower by those of W. Conway.

It appears to the board from a patent exhibited that said land, together with a greater quantity, was granted by the Spanish Government to one Maurice Conway on the 21st June, 1777, and it appearing from divers deeds of conveyance also exhibited that the land now claimed by the present claimant has been legally conveyed to him, the board do therefore confirm him in his said claim.

454 * * * * * * *

Page 226.

No. 133. William Donaldson & John W. Scott claim a tract of land

situated in the county of Acadia, on the left bank of the Mississippi, about twenty-two leagues above the city of New Orleans, containing twenty-nine acres front, with the depth to the river Amite, bounded on the upper side by land of one Simonet and on the lower by land of Daniel Clark.

It appearing to the board from an instrument of writing exhibited that said land was sold at public auction on the 12th day of August, 1798, before Evan Jones, at that time commandant of La Fourche, to Louis Faure, and it appearing from sundry deeds of conveyance, likewise exhibited, that said land has become the property of the present claimant, the board do hereby confirm his said claim.

SURVEYOR-GENERAL'S OFFICE,
DISTRICT OF LOUISIANA,
New Orleans, May 2nd, 1882.

It is hereby certified that the foregoing are true and faithful copies taken from the pages designated of the book on file and of record in
455 this office, being the transcript of favorable decisions by the board of commissioners for the eastern district of the Territory of Orleans, appointed under the act of Congress, approved March 2nd, 1805, entitled "An act for ascertaining and adjusting the titles and claims to land within the Territory of Orleans and the district of Louisiana," filed in this office in pursuance of the fifth section of said act.

Witness my hand and seal of office the year and day above written.

[SEAL.] (Signed) JACQUES A. GLA,
Surveyor-General La.

Memorandum of defendant's evidence.—Filed May 4th, 1882.

U. S. circuit court, east. dist. of La.

ALFRED SLIDELL ET ALS
vs.
LÉON FRÉMAUX, REGISTER. } No. 9684.

MEMORANDUM OF DEFENDANT'S EVIDENCE.

1°. Admissions of the complainant filed in this cause on the 24th day of April, 1882, and on the 1st day of May, 1882, and 2nd day of May, 1882.

2°. Regulations of O'Rielly at p. 978 of 1 vol. Clark's Land Laws, dated 18th Feb., 1770.

(Signed) ROUSE & GRANT,
Sol's for Def't.

456 1°. Admissions of counsel of April 24th, 1882, filed May 1st, 1882; offered in evidence by defendants May 4th, 1882, mentioned as "1°" in foregoing note of evidence; and admissions of counsel of May 2nd, 1882, filed May 2nd, 1882, mentioned as "1°" in foregoing note of evidence, are already transcribed at pages 124 & 450 of this transcript.

2°. Regulations of O'Rielly at p. 978 of 1 vol. Clark's Land Laws, dated 18th February, 1770. Offered in evidence by defendant, mentioned as "2°" in foregoing note of evidence.

F. Regulations for the granting of land under the Spanish Government of Louisiana, and Mr. Gallatin's instructions to the land commissioners in Louisiana and Missouri.

No. 1. Don Alexander O'Reilly, commander of Benfayou, of the Order of Alcantara, inspector-general of infantry, appointed by special commission governor and captain-general of this province of Louisiana.

Divers complaints and petitions which have been addressed to
457 us by the inhabitants of Opelousas, Attakapas, Nachitoches, and other places of this province, joined to the knowledge we have acquired of the local concerns, culture, and means of the inhabitants by the visit which we have lately made to the Cote des Allemands, Cote des Acadions, Hyberville, and La Pointe Coupee, with the examination we have made of the report of the inhabitants assembled by our order in each district, having convinced us that the tranquility of the said inhabitants and the progress of culture required a new regulation which should fix the extent of the grants of lands which shall hereafter be made, as well as the enclosures, cleared lands, roads, and bridges which the inhabitants are bound to keep in repair, and to point out the damage by cattle for which the proprietors shall be responsible—for these causes, and having nothing in view but the public good and the happiness of every inhabitant, after having advised with persons well informed in these matters, we have regulated all those objects in the following articles:

1. There shall be granted to each newly-arrived family, who may
458 wish to establish themselves on the borders of the river, six or eight arpens in front (according to the means of the cultivator) by forty arpens in depth, in order that they may have the benefit of the cypress wood which is as necessary as useful to the inhabitants.

2. The grantees established on the borders of the river shall be held bound to make, within the three first years of possession, mounds sufficient for the preservation of the land and the ditches necessary to carry off the water. They shall besides keep the roads in good repair, of the width of at least forty feet between the inner ditch which runs along the mound and the barrier, with bridges of twelve feet over the ditches which may cross the roads. The said grantees shall be held bound, within the said term of three years' possession, to clear the whole front of their land to the depth of two arpens, and in default of fulfilling these conditions their land shall revert to the king's domain and be granted anew; and the judge of each place shall be responsible to the governor for the superintendence of this object.

459 3. The said grants can neither be sold nor aliened by the proprietors until after three years of possession and until the above-mentioned conditions shall have been entirely fulfilled. To guard against every evasion in this respect the sales of the said lands cannot be made without a written permission from the governor-general, who will not grant it until, on strict inquiry, it shall be found that the conditions above explained have been duly executed.

4. The points formed by the lands on the Mississippi River, leaving in

some places but little depth, there may be granted in these cases twelve arpens of front; and on a supposition that these points should not be applied for by any inhabitant, they shall be distributed to the settlers nearest thereto in order that the communication of the roads may not be interrupted.

5. If a tract belonging to minors should remain uncleared and the mounds and roads should not be kept in repair, the judge of the quarter shall inquire into the cause thereof. If attributable to the guardians, he shall oblige him to conform promptly to this regulation; but if
460 arising from want of means in the minors, the judge, after having by a verbal process obtained proof thereof, shall report the same to the governor-general to the end that the said land may be sold for the benefit of the minors (a special favor granted to minors only); but if no purchaser shall within six months be found, the said land shall be conceded gratis.

6. Every inhabitant shall be held bound to enclose within three years the whole front of his land which shall be cleared; and for the remainder of his enclosure he will agree with his neighbors in proportion to his cleared land and his means.

7. Cattle shall be permitted to go at large from the eleventh of November to the fifteenth of March of the year following, and at all other times the proprietor shall be responsible for the damage that his cattle may have done to his neighbors. He who may have suffered the damage shall complain to the judge of the district, who, after having satisfied himself of the truth thereof, shall name experienced men to estimate the value of the same and shall then order remuneration without delay.

461 8. No grant in the Opelousas, Attacapas, and Nachitoches shall exceed one league in front by one league in depth, but when the land granted shall not have that depth, a league and a half in front by half a league in depth may be granted.

9. To obtain in the Opelousas, Attacapas, and Nachitoches a grant of forty-two arpens in front by forty-two arpens in depth the applicant must make appear that he is possessor of one hundred head of tame cattle, some horses and sheep, and two slaves to look after them, a proportion which shall always be observed for the grants to be made of greater extent than that declared in the preceeding article.

10. All cattle shall be branded by the proprietors, and those who shall not have branded them at the age of eighteen months cannot thereafter claim a property therein.

11. Nothing being more injurious to the inhabitants than strayed cattle, without the destruction of which tame cattle cannot increase, and the inhabitants will continue to labor under those evils of which they
462 have often complained to us, and considering that the province is at present infested by strayed cattle, we allow to the proprietors until the first day of July of the next year, one thousand seven hundred and seventy-one, and no longer, to collect and kill, to their use, the said strayed cattle, after which time they shall be considered wild and may be killed by any person whomsoever; and no one shall oppose himself thereto or lay claim to a property therein.

12. All grants shall be made in the name of the king by the governor-general of the province, who will at the same time appoint a surveyor to

fix the bounds thereof, both in front and depth, in presence of the judge ordinary of the district and of two adjoining settlers who shall be present at the survey. The above-mentioned four persons shall sign the verbal process which shall be made thereof, and the surveyor shall make three copies of the same, one of which shall be deposited in the office of the scrivenor of the government and cabildo, another shall be delivered to the governor-general, and the third to the proprietor to be annexed
463 to the titles of his grant.

In pursuance of the powers which our lord the King (whom God preserve) has been pleased to confide to us by his patent issued at Aranjues the 16th of April, 1769, to establish in the military, the police, and in the administration of justice and his finances such regulations as should be conducive to his service and the happiness of his subjects in this colony, with the reserve of his majesty's good pleasure, we order and command the governor, judges, cabildo, and all the inhabitants of this province to *per*form punctually to all that is required by this regulation.

Given at New Orleans the 18th of February, 1770.

464 *Agreement by complainants to discharge rule.—Filed May 4th, 1882.*

U. S. circuit court, 5th ct' and eastern district of Louisiana.

ALFRED SLIDELL ET ALS. *vs.* LEON FRÉMAUX. } No. 9684.

In the above-entitled cause, the motion filed therein by complainants on the 28th day of December, 1881, to suppress the plan or map filed with the answer of respondents on the 28th November, 1881, and as a part thereof, the said plan having been voluntarily withdrawn by respondents, the said motion is hereby vacated and abandoned, and a decision by the court thereon waived.

(Signed) J. L. BRADFORD,
Counsel for Complainants.

Agreement of counsel to submit cause.—Filed May 5th, 1882.

U. S. circuit court, e. dist. of La.

465 ALFRED SLIDELL ET ALS. *vs.* LÉON FRÉMAUX. } No. 9684.

It is agreed by counsel that publication in clerk's office be passed in this case and the same, including defendant's motion to suppress certain evidence, be now submitted to the court for final hearing, either party to be allowed the space of fifteen days from this date within which to file a brief.

May 5th, 1882. (Signed) J. L. BRADFORD,
For Complainants.
ROUSE & GRANT,
For Def'ts.

Submission of cause.—Extract from the minutes, April term, 1882.

NEW ORLEANS, *Friday May, 5th,* 1882.

Court met pursuant to adjournment.
Present, Hon. E. C. Billings, district judge.

ALFRED SLIDELL ET ALS. *vs.* LEON FRÉMAUX. } No. 9684.

466 By written consent of counsel this day filed, it is agreed that publication in the clerk's office be passed in this cause, and the same, including defendant's motion to suppress certain evidence, be now submitted to the court for final hearing, either party to be allowed the space of fifteen days from this date within which to file a brief.

Decree.—Entered & filed June 16th, 1882.

U. S. circuit court, eastern dist. of La.

A. SLIDELL ET AL. *vs.* LÉON FRÉMAUX, REGISTER STATE LAND OFFICE. } No. 9684.

This cause came on to be heard at this term, and was argued by counsel. Whereupon and upon consideration thereof, it was ordered, adjudged, and decreed that the injunction heretofore granted be dissolved,
467 and that the complainant's bill be dismissed with costs.
June 16, 1882.
(Signed) EDWARD C. BILLINGS, *Judge.*

Motion for appeal.—Entered & filed June 16th, 1882.

U. S. circuit court, fifth circuit and eastern district of Louisiana.

ALFRED SLIDELL, OLIVER BEIRNE, DUNCAN F. KENNER, Nicholas B. Trist, Nicholas H. Rightor, Robert Lawes, Marguerite Mathilde Slidell, wife of Baron D' Erlanger, Marie Rosine Slidell, wife of count de St Roman, Marie Marguerite Caroline Slidell, wife of Jacob Antone de Heydegg, Henry C. Millaudon, Benjamin L. Millaudon, Jeanne Henrietta Millaudon, widow of Charles C. Gardanne, dec'd, Laurent A. Burthe, Josephine Pagés, widow of Emanuel Burthe, dec'd, Thomas Butler, tutor, &c., Genevieve Millaudon, wife of Geo. E. Brown, Louise Burthe, widow of D. F. E. Burthe, Nanine Bringier, wife of D. F. Kenner, Aglaé Bringier, wife of Benjamin Tureaud, Louisa Bringier, wife of Martin Gordon, jr., Marius S. Bringier, Octavie Bringier, wife of Allen Thomas, M. D. Bringier, Louise Taylor, Bettie Taylor, wife of Walter Stauffer, Nicholas P. Trist, and Wilhelmine Trist, wife of Robert C. Wood,

468

vs.

LÉON FRÉMAUX, REGISTER OF THE STATE land office for the State of Louisiana.

No. 9684.

On motion of J. L. Bradford, solicitor for the complainants in the above-entitled cause, and, on suggesting to the court that said complainants are aggrieved by the final decree in this cause this day rendered, and believing that there is error therein, it is ordered that the said complainants be, and they are hereby, allowed an appeal therefrom to the Supreme Court of the United States, returnable therein on the second Monday of October next ensuing, to operate as a supercedeas, upon the complainants giving bond, with one solvent surety, in the sum of five hundred dollars, conditioned as the law directs.

469 Service of appeal admitted, and citation of appeal waived.

(Signed) ROUSE & GRANT,
Solicitors for Respondents.

Bond for appeal.—Filed June 16, 1882.

UNITED STATES OF AMERICA:

Know all men by these presents that we, Nicholas H. Rightor, as principal, and Edward T. Manning, as surety, are held and firmly bound, jointly and severally, unto James G. Richardson, register of the State land office of the State of Louisiana, successor in said office of Leon Fremaux, in the sum of five hundred dollars, lawful money of the United States of America,

to be paid to the said James G. Richardson, his heirs, executors, administrators and assigns, for which payment well and truly to be made we bind ourselves, and each of us by himself, and each of our heirs, executors, and administrators, firmly by these presents. Sealed with our seals and dated the 16th day of June, in the year of our Lord eighteen hun-
470 dred and eighty-two.

Whereas the said Nicholas H. Rightor and others having, heretofore, to wit; on this 16th day of June, 1882, taken an appeal to the Supreme Court of the United States, from and to reverse the decree rendered on this 16th day of June, 1882, by the circuit court of the United States for the fifth circuit holding sessions in and for the eastern district of Louisiana, in the suit of Alfred Slidell and others against Leon Fremaux, register, &c., as aforesaid, now represented by the said James G. Richardson, his successor in said office, No. 9684 of the docket thereof.

Now the condition of the above obligation is, that if the above bounden N. H. Rightor and his co-complainants shall prosecute said appeal to effect, and shall answer all damages and costs if they shall fail to make good their plea, then this obligation shall be void, otherwise to remain in full force and virtue.

(Signed) N. H. RIGHTOR. [L. S.]
ED. T. MANNING. [L. S.]

471 Signed, sealed, & delivered in the presence of—
(Signed) WM. H. WRIGHT.
SAM'L POWERS.

UNITED STATES OF AMERICA,
Eastern District of Louisiana, ss:

Personally appeared Edward T. Manning, who, being duly sworn, deposes and says, that he is the surety on the within bond; that he resides in the city of New Orleans, State of Louisiana, and is worth the full sum of five hundred dollars over and above all of his debts and liabilities, and property exempt from execution.

(Signed) ED. T. MANNING.

Subscribed & sworn before me, this 16th day of June, 1882.
(Signed) F. A. WOOLFLEY,
Comm'r U. S. Circuit Court,
Eastern District of Louisiana.

The within bond is hereby approved this 16th June, A. D. 1882.
(Signed) EDWARD C. BILLINGS, *Judge.*

472 UNITED STATES OF AMERICA:

Circuit court of the United States, fifth circuit, and eastern district of Louisiana.

CLERK'S OFFICE.

I, Francis A. Woolfley, clerk of the circuit court of the United States for the fifth circuit and eastern district of Louisiana, do hereby certify that the foregoing 471 pages, together with plat of survey marked 110½, contain and form a full, complete, true, and perfect transcript of the record

and proceedings had, together with all the evidence adduced on the trial of the case of Alfred Slidell et als. vs. Léon Frémaux, register of the State land office, No. 9684, of the docket of the said court.

Witness my hand and the seal of said court, at the city of New Orleans, this 7th day of August, A. D. 1882.

Twelve (12) words interlined approved.

[SEAL.] F. A. WOOLFLEY, *Clerk.*

I, Edward C. Billings, United States judge for the eastern district of Louisiana, do certify that Francis A. Woolfley, whose name is signed to the above certificate as clerk of the circuit court of the United States for the fifth circuit and eastern district of Louisiana, was, at the time of signing said certificate, and is now the clerk of said court; that said certificate is in due form of law, and that full faith and credit are due to his official attestations as such clerk.

Given under my hand, at the city of New Orleans, in said district, this 7th day of August, A. D. 1882.

Two words interlined approved.

EDWARD C. BILLINGS, *Judge.*

(Indorsement on cover:) No. 903. Alfred Slidell, Nicholas H. Rightor, et al., appellants, vs. James G. Richardson, register of the State land office of Louisiana, successor to Léon Frémaux. E. Louisiana C. C. U. S. Filed 16th August, 1882.